

# HOUSE JOURNAL

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SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

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## PROCEEDINGS

EIGHTIETH DAY — WEDNESDAY, MAY 24, 1995

The house met at 12:10 p.m. and was called to order by the speaker pro tempore.

The roll of the house was called and a quorum was announced present (Record 515).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithe; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Absent, Excused — Wilson.

### LEAVES OF ABSENCE GRANTED

On motion of Representative Rodriguez and by unanimous consent, all members who were granted leaves of absence on the previous legislative day were granted leaves for this legislative day.

### RULES SUSPENDED

Representative Rodriguez moved to suspend all necessary rules in order to take up and consider at this time, on third reading and final passage, the bills on the local and consent bills calendars which were considered on the previous legislative day.

The motion prevailed without objection.

### LOCAL AND CONSENT BILLS CALENDARS ON THIRD READING

The following bills which were considered on second reading on the previous legislative day on the local and consent bills calendars were laid before

the house, read third time, and passed by a voice vote (members registering votes are shown following bill number):

**SB 1647**

**SB 1657**

**SB 1709**

**SB 1720**

**SB 89**

**SB 131**

**SB 224**

**SB 225**

**SB 390**

**SB 452**

**SB 496**

**SB 519**

**SB 525**

**SB 527**

**SB 538**

**SB 553**

**SB 585**

**SB 595**

**SB 612** was withdrawn.

**SB 634**

**SB 636** (T. Hunter - no)

**SB 676**

**SB 698**

**SB 752**

**SB 783**

**SB 805**

**SB 871**

**SB 886**

**SB 896**

**SB 913**

**SB 918**

**SB 919**

**SB 944**

**SB 1020**

**SB 1044** (T. Hunter - no)

**SB 1046**

**SB 1058**

**SB 1092**

**SB 1128**

**SB 1175**

**SB 1177**

**SB 1178**

**SB 1179**

**SB 1182**

**SB 1197**

**SB 1217**

**SB 1222**

**SB 1252**

**SB 1276**

**SB 1301**

**SB 1314**

**SB 1337**

**SB 1338**

**SB 1363**

**SB 1396**

**SB 1407**

**SB 1435**

**SB 1437**

**SB 1439**

**SB 1502**

**SB 1514**

**SB 1549**

**SB 1554**

**SB 1601**

**SB 1619**

**SB 1632**

**SB 1670**

**SB 1691**

**SB 1694**

**SB 1701**

**SB 1705** (R. Cuellar and Gutierrez - no)

The following bills which were considered on second reading on the previous legislative day on the local and consent bills calendars were laid before the house, read third time, and passed by (Record 516): 147 Yeas, 0 Nays, 1 Present, not voting (members registering votes and the results of the vote are shown following bill number).

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher(C); Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker.

Absent, Excused — Wilson.

Absent — Rusling.

**SB 1076** (147-0-1)

**SB 1714** (147-0-1)

**SB 74** (147-0-1)

**SB 123** (147-0-1)

**SB 1397** (Finnell - present, not voting) (146-0-2)

**SB 1535** (147-0-1)

**SB 1646** (147-0-1)

**SB 1681** (147-0-1)

**SB 1695** (147-0-1)

#### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business in the district:

Carona on motion of De La Garza.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Rules and Resolutions, on recess today, Desk 133, to consider the calendar.

**RECESS**

Representative J. Jones moved that the house recess until 2 p.m.

The motion prevailed without objection.

The house accordingly, at 12:28 p.m., recessed until 2 p.m.

**AFTERNOON SESSION**

The house met at 2 p.m. and was called to order by the speaker.

**HR 1042 - ADOPTED**

Representative Kamel moved to suspend all necessary rules to take up and consider at this time **HR 1042**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Kamel,

**HR 1042**, Honoring the Tyler Salvation Army.

The resolution was adopted without objection.

**HR 1087 - ADOPTED**

Representative Place moved to suspend all necessary rules to take up and consider at this time **HR 1087**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Place,

**HR 1087**, Congratulating Eddie and Vicki Gregory on the birth of their new son, Kevin Blake Gregory.

The resolution was adopted without objection.

**MESSAGE FROM THE SENATE**

Austin, Texas, May 24, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**SCR 164** by Cain, declaring Rains County the Eagle Capitol of Texas.

**HB 785** by Seidlits (Sponsor-Montford), relating to the regulation of manufactured housing; providing penalties (committee substitute and amended).

**HB 1359** by Alexander (Sponsor-Wentworth), relating to road construction, repair, and maintenance in certain areas controlled by the Parks and Wildlife Department.

The Senate discharged the conferees on **SB 14** and appointed the following new conferees: Bivins, Chair, Armbrister, Sims, Nelson and Barrientos.

I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee Report on the following: **HB 1127** by Viva Voce Vote; **HB 815** by 31 Yeas, 0 Nays; and **SB 626** by 31 Yeas, 0 Nays.

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to the following: **SB 3, SB 20, SB 102, SB 182, SB 212, SB 283, SB 291, SB 440, SB 338, SB 533, SB 512, SB 914, SB 1357, SB 640, SB 643, SB 644, SB 597**, By Viva Voce Vote; **SJR 1, SB 94, SB 124, SB 126, SB 129, SB 133, SB 351, SB 428, SB 572, SB 413, SB 472, SB 1059, SB 642**, by a vote of 31 Yeas, 0 Nays. **SB 904** by 30 Yeas, 0 Nays; 1 Present Not Voting.

(Speaker pro tempore in the chair)

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to the following Senate Bills and requests the appointment of a Conference Committee to adjust the differences between the two Houses:

**SB 345** Senate Conferees: Brown, Chair, Montford, Rosson, Bivins and Truan.

**SB 744** Senate Conferees: Cain, Chair, West, Gallegos, Whitmire and Wentworth.

I am directed by the Senate to inform the House that the Senate has granted the request of the House for the appointment of a Conference Committee to adjust the differences between the two Houses on **HB 3003**.

The following have been appointed on the part of the Senate: Senator Lucio, Chair, Senator Brown, Senator Haywood, Senator Sims, and Senator Bivins.

Respectfully,  
Betty King  
Secretary of the Senate

(Speaker in the chair)

### **HR 1060 - ADOPTED**

Representative Black moved to suspend all necessary rules to take up and consider at this time **HR 1060**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Black,

**HR 1060**

WHEREAS, It has long been the custom of the House of Representatives of the State of Texas to honor the children of its members by electing them to the office of mascot; and

WHEREAS, A roster of mascot candidates eligible for this special recognition under the rules of this house has been compiled; now, therefore, be it

RESOLVED, That the House of Representatives of the 74th Texas Legislature hereby elect the following children of house members to the honorary office of mascot:

Roberto Avila Alonzo, Jr., Maria Xiomara Avila Alonzo, and Jose Maria Emeterio Avila Alonzo, children of Representative Roberto R. Alonzo;

Kristina Grace Averitt, daughter of Representative Kip Averitt;

Christina Alexandra Cuellar, daughter of Representative Henry Cuellar;

David Edward Coffman, son of Representative Debra Danburg;

Quentin Micael De La Garza and D'arce Anise De La Garza, children of Representative Eddie De La Garza;

Jeremy Ross Elkins, Elizabeth Grace Elkins, and Rachael Nichole Elkins, children of Representative Gary Elkins;

Chad Joseph Rivers Howard, son of Representative Charlie Howard;

Alison Taylor Krusee, Joe Krusee, Sam Krusee, and Jim Krusee, children of Representative Mike Krusee;

JeLani Bailey Lewis and Tiffany Gaye Lewis, children of Representative Glenn Lewis;

Alec Smith Lewis, son of Representative Ron Lewis;

Matthew Joseph Nixon, Nicholas Lowery Nixon, and Stewart Allan Nixon, sons of Representative Joe Nixon;

James Connor Oakley, son of Representative Keith Oakley;

Josey Marie Pickett and Conrad Pickett, children of Representative Joe Pickett;

Alec Robert Puente and Liana Theresa Puente, children of Representative Robert R. Puente;

Haley Elizabeth Solomons, daughter of Representative Burt Solomons;

Elizabeth Ann Staples, Jared Cole Staples, and Jonathan Clarke Thorn, children of Representative Todd Staples;

Allen Ross Stiles and Shanna Elizabeth Brown, children of Representative Mark Stiles;

Macie Tillery, M'Lynn Tillery, Meredith Tillery, and Derek Tillery, children of Representative Dale Tillery;

Baby Wolens, child of Representative Steve Wolens; and

Zoe Ariel Zbranek, daughter of Representative Zeb Zbranek; and, be it further

RESOLVED, That pictures of the mascots appear on the picture panel of the Texas House of Representatives and that an official certificate be prepared for each mascot as a memento of this honor.

The resolution was adopted without objection.

### **HR 1061 - ADOPTED**

Representative Black moved to suspend all necessary rules to take up and consider at this time **HR 1061**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Black,

**HR 1061**

WHEREAS, It has long been the custom of the House of Representatives of the State of Texas to honor the children of its members by electing them to the office of mascot; and

WHEREAS, For more than a decade, the House of Representatives also has bestowed special recognition on the grandchildren and great-grandchildren of its members by naming them honorary mascots of this house as well; and

WHEREAS, A roster of members' grandchildren and great-grandchildren has been compiled for this special designation; now, therefore, be it

RESOLVED, That the House of Representatives of the 74th Texas Legislature hereby designate the following grandchildren and great-grandchildren of house members as honorary mascots:

Robert Taylor Allen, RaeAnne Grace Allen, and Morgan Dawn Carey, grandchildren of Representative Ray Allen;

Austin Ray Sheppard, grandson of Representative Kim Brimer;

Jonathan Gregory Carter, grandson of Representative Bill Carter;

Pedro Ortiz III, grandson of Representative Billy Clemons;

Matthew David Counts, grandson of Representative David Counts;

Hannah R. Crabb, granddaughter of Representative Joe Crabb;

Barbra Lee-Ann Cuellar, Austin Lee Cuellar, and Gabriel Adam Cuellar, grandchildren of Representative Renato Cuellar;

Joseph Michael O'Neal, John Allen Ehrhardt III, Cameron George Nelson, John Michael Scott Twichell, Leah Michelle Twichell, and Harryette Lauren Ruth Twichell, grandchildren of Representative Harryette Ehrhardt;

Katherine Shelton Glaze, granddaughter of Representative Bob Glaze;

Jordan Tyler Dismang, grandson of Representative Toby Goodman;

Ana Cecilia Gutierrez, Joel Roberto Romero, and Sara Cecilia Gonzales, grandchildren of Representative Roberto Gutierrez;

Hunter Gordon Branam and Christa Marque Branam, grandchildren of Representative Allen Hightower;

Suzannah Melanie Evans, granddaughter of Representative Fred Hill;

Ashton Rivers Taylor Drenner, grandson of Representative Charlie Howard;

Andrew Boyd Johnson, grandson of Representative Jerry Johnson;

Carlos Hanks McDonald and Tyler Willis McDonald, grandsons of Representative Nancy McDonald;

Alexis Michaela Park, Amanda Elizabeth Park, and Andrew Cade Lobodinski, grandchildren of Representative Carolyn Park;

Logan Mechell Patterson, granddaughter of Representative Pete Patterson;

Jesse Dalton Rhodes, Jacob Dillon Rhodes, and Joshua David Rhodes, grandsons of Representative Alec Rhodes;

Austin Rusling, Ryan Wieser, and Adam Rusling, grandchildren of Representative Barbara Rusling;

Kelsee DeShay West, Shelby Breann West, and Scotty Landon Satterwhite, grandchildren of Representative George "Buddy" West;



Abbie Jackson and Morgan Jackson, granddaughters of Representative Beverly Woolley;

Jessica Lynn Marshall, granddaughter of Representative Jerry Yost; and  
Lars Christopher Hogan and Erik Christopher Hogan, great-grandsons of Representative Bill Carter; and, be it further

RESOLVED, That the names of the honorary mascots, their grandparents, and their great-grandparents be placed on the picture panel of the House of Representatives of the 74th Texas Legislature; and, be it further

RESOLVED, That an official certificate be prepared for each honorary mascot as a memento of this honor.

The resolution was adopted without objection.

### RESOLUTIONS REFERRED TO COMMITTEES

The following resolutions were laid before the house and referred to committees:

**SCR 165**, Expressing gratitude to Mrs. Margaret Mills for her outstanding service as a Commissioner for the Texas Commission on the Arts.

To Committee on Rules and Resolutions.

**SCR 166**, In memory of Charles B. Smith.

To Committee on Rules and Resolutions.

By Brimer,

**HR 1027**, In memory of Iona Mae Bagwell Kloster.

To Committee on Rules and Resolutions.

By Sadler,

**HR 1028**, Honoring Mr. and Mrs. Joe B. Craig on their 55th wedding anniversary.

To Committee on Rules and Resolutions.

By Ogden,

**HR 1029**, Commending Marvin Tate on the occasion of his retirement as mayor of Bryan.

To Committee on Rules and Resolutions.

By Grusendorf,

**HR 1030**, Congratulating Beth Johnson on her birthday.

To Committee on Rules and Resolutions.

By G. Lewis,

**HR 1031**, Honoring former Forest Hill Mayor Donald R. Walker on his recent retirement.

To Committee on Rules and Resolutions.

By Kuempel,

**HR 1032**, Honoring Sandra Beckett on her retirement.

To Committee on Rules and Resolutions.

By Kuempel,

**HR 1033**, Congratulating Laneta Watson on her retirement.

To Committee on Rules and Resolutions.

By Kuempel,

**HR 1034**, Honoring Charlene Fundis on the occasion of her retirement.  
To Committee on Rules and Resolutions.

By Davis,

**HR 1036**, Honoring Sunday School Class No. 25 at Saint Baptist Church  
in Houston.

To Committee on Rules and Resolutions.

By McDonald,

**HR 1037**, Honoring Tom Diamond.  
To Committee on Rules and Resolutions.

By Staples,

**HR 1038**, Honoring the Texas Scottish Rite Hospital for Children.  
To Committee on Rules and Resolutions.

By G. Lewis,

**HR 1039**, Honoring Len A. Fuller, Jr.  
To Committee on Rules and Resolutions.

By G. Lewis,

**HR 1040**, Honoring Councilman Robert Albert Davis for his service to  
the citizens of Forest Hill.

To Committee on Rules and Resolutions.

By Dutton,

**HR 1041**, Honoring Tonya Hill for her selection as Crawford Elementary  
School's Student of the Year.

To Committee on Rules and Resolutions.

By Dutton,

**HR 1043**, Honoring Michael Carty on his selection as HISD Exceptional  
Education Teacher of the Year.

To Committee on Rules and Resolutions.

By Finnell,

**HR 1044**, Commending Vernon State Hospital.

To Committee on Rules and Resolutions.

By Finnell,

**HR 1045**, Honoring the Midway Independent School District math teams.

To Committee on Rules and Resolutions.

By Pickett,

**HR 1046**, Congratulating the J. M. Hanks High School varsity golf team.

To Committee on Rules and Resolutions.

By Siebert,

**HR 1047**, Honoring Keith White for his business contributions and  
community service.

To Committee on Rules and Resolutions.

By Siebert,

**HR 1048**, Honoring the men and women of the American intelligence  
services.

To Committee on Rules and Resolutions.

By Saunders,

**HR 1050**, Honoring the Schulenburg High School girls' golf team on winning the UIL Class 2A state championship.

To Committee on Rules and Resolutions.

By Shields,

**HR 1055**, Honoring Pastor Allen Randolph.

To Committee on Rules and Resolutions.

By Shields,

**HR 1056**, In memory of Barbara Schoolcraft.

To Committee on Rules and Resolutions.

By Chisum,

**HR 1057**, In memory of the Honorable Max W. Boyer.

To Committee on Rules and Resolutions.

By Black,

**HR 1058**, Congratulating the students of Salado High School on winning the Academic State Championship in Conference 2A.

To Committee on Rules and Resolutions.

By Black,

**HR 1059**, In memory of former house members.

To Committee on Rules and Resolutions.

By Uher,

**HR 1062**, Honoring the Clute Little League All-Stars.

To Committee on Rules and Resolutions.

By Alonzo,

**HR 1063**, Commending the Texas Association of Chicanos in Higher Education.

To Committee on Rules and Resolutions.

By Alonzo,

**HR 1064**, Commending the National Council of La Raza.

To Committee on Rules and Resolutions.

By Alonzo,

**HR 1065**, Honoring Lorraine Saenz-Sarabia on her election to the Grand Prairie school board.

To Committee on Rules and Resolutions.

By Junell,

**HR 1066**, In memory of Rene Ruth Stewart.

To Committee on Rules and Resolutions.

By Marchant,

**HR 1067**, Congratulating Raymond K. Haynes on being awarded an honorary membership in the Texas Association of Nurserymen.

To Committee on Rules and Resolutions.

By Marchant,

**HR 1068**, Congratulating Reverend William Dorough and Mrs. Velma Dorough on their 50th wedding anniversary.

To Committee on Rules and Resolutions.

By Marchant,

**HR 1069**, Congratulating the Southern Nazarene University Lady Redskins for winning the NAIA Division I National Women's Basketball Championship.  
To Committee on Rules and Resolutions.

By Marchant,

**HR 1070**, Honoring the Reverend Marvin McDaniel on his retirement.  
To Committee on Rules and Resolutions.

By Mowery,

**HR 1077**, Congratulating Susan and Steve Collier on the birth of their quadruplets.  
To Committee on Rules and Resolutions.

By Gutierrez,

**HR 1082**, In memory of Rodney Ryan Perez.  
To Committee on Rules and Resolutions.

By Solis,

**HR 1085**, Congratulating Mr. and Mrs. Guadalupe Rodriguez on the occasion of their 40th wedding anniversary.  
To Committee on Rules and Resolutions.

By Berlanga,

**HR 1086**, Urging dental provider organizations to follow certain guidelines.  
To Committee on Public Health.

By Jackson and Talton,

**HCR 223**, Honoring Chelsi Smith, Miss Universe 1995.  
To Committee on Rules and Resolutions.

By Crabb,

**HCR 224**, Honoring Kingwood High School for its athletic championships.  
To Committee on Rules and Resolutions.

By Siebert,

**HCR 225**, Granting A & A Insulation permission to sue the State of Texas and the General Services Commission.  
To Committee on Civil Practices.

By Raymond,

**HCR 226**, Establishing the Texas Community Nutrition Task Force to develop, implement, and evaluate a two-year community food production and farmer's market pilot program.  
To Committee on State Affairs.

By Giddings,

**HCR 228**, Honoring Dana Vaughn for her success in business with her sister, Denise Ward.  
To Committee on Rules and Resolutions.

By Giddings,

**HCR 229**, Honoring Denise Ward for her success in business with her sister, Dana Vaughn.  
To Committee on Rules and Resolutions.

By Carter, et al.,  
**HCR 230**, Commending the members of the Texas Task Force for  
Tiltrotor Technology.

To Committee on Rules and Resolutions.

(Black in the chair)

**SB 261 - REQUEST OF SENATE GRANTED**

On motion of Representative Reyna, the house granted the request of the senate for the appointment of a conference committee on **SB 261**.

**SB 261 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 261**: Reyna, chair, Hill, Tillery, Bailey, and Davila.

**SB 550 - REQUEST OF SENATE GRANTED**

On motion of Representative Holzheuser, the house granted the request of the senate for the appointment of a conference committee on **SB 550**.

**SB 550 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 550**: Holzheuser, chair, Ogden, Torres, Marchant, and Ramsay.

**SB 646 - REQUEST OF SENATE GRANTED**

On motion of Representative R. Cuellar, the house granted the request of the senate for the appointment of a conference committee on **SB 646**.

**SB 646 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 646**: R. Cuellar, chair, Willis, De La Garza, Duncan, and Haggerty.

**SB 840 - REQUEST OF SENATE GRANTED**

On motion of Representative R. Cuellar, the house granted the request of the senate for the appointment of a conference committee on **SB 840**.

**SB 840 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 840**: De La Garza, chair, Place, Solis, West, and Brady.

**SB 992 - REQUEST OF SENATE GRANTED**

On motion of Representative Dukes, the house granted the request of the senate for the appointment of a conference committee on **SB 992**.

**SB 992 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 992**: Dukes, chair, Combs, Hamric, Tillery, and Mowery.

**SB 1445 - REQUEST OF SENATE GRANTED**

On motion of Representative Siebert, the house granted the request of the senate for the appointment of a conference committee on **SB 1445**.

**SB 1445 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1445**: Siebert, chair, Alexander, Craddick, Howard, and Hochberg.

**SB 9 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Gray submitted the conference committee report on **SB 9**.

Representative Gray moved to adopt the conference committee report on **SB 9**.

The motion prevailed.

**HB 73 - WITH SENATE AMENDMENT**

Representative Delisi called up with a senate amendment for consideration at this time,

**HB 73**, A bill to be entitled An Act relating to the fraudulent filing of a financing statement; providing a penalty.

On motion of Representative Delisi, the house concurred in the senate amendment to **HB 73**.

**HB 73 - TEXT OF SENATE AMENDMENT****Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 73** by striking the words, "or has reason to know" from lines 9 and 10 of page 1. Lines 7 through 10 of page 1 to read as follows:

Sec. 9.412. FRAUDULENT FILING. (a) A person may not intentionally or knowingly present for filing or cause to be presented for filing a financing statement if the person knows that the financing statement:

**HB 200 - WITH SENATE AMENDMENT**

Representative Madden called up with a senate amendment for consideration at this time,

**HB 200**, A bill to be entitled An Act relating to professional surveying.

On motion of Representative Madden, the house concurred in the senate amendment to **HB 200**. (Telford recorded voting no)

**HB 200 - TEXT OF SENATE AMENDMENT**

**CSHB 200**, A Bill to be entitled An Act relating to professional surveying.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(1), Professional Land Surveying Practices Act (Article 5282c, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Professional surveying" means the practice [~~for compensation~~] of

land, boundary, or property surveying or other similar professional practices. The term includes any service or work the adequate performance of which involves the application of special knowledge of the principles of geodesy, mathematics, related applied and physical sciences, and relevant laws to the measurement and location of sites, points, lines, angles, elevations, natural features, and existing man-made works in the air, on the surface of the earth, within underground workings,[:] and[:] on the beds of bodies of water for[:] the purpose of determining [~~determination of~~] areas and volumes[:] for:

(A) the location of real property boundaries;

(B) the platting and layout of lands and subdivisions of land;

and

(C) the preparation and perpetuation of maps, record plats, field note records, easements, and real property descriptions that represent those surveys.

SECTION 2. Section 3A, Professional Land Surveying Practices Act (Article 5282c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3A. This Act does not require the use of a registered land surveyor to establish an easement or a construction estimate which does not involve the monumentation, delineation, or preparation of a metes and bounds description.

SECTION 3. Section 15, Professional Land Surveying Practices Act (Article 5282c, Vernon's Texas Civil Statutes), is amended by amending Subsections (c) and (e) and by adding Subsection (d) to read as follows:

(c) An applicant who applies for registration as a registered professional land surveyor on or before January 1, 2003, must:

(1) hold a valid certificate as a surveyor-in-training; and

(2) have at least two years of experience as a surveyor-in-training of a character satisfactory to the board in the performance of surveying in delegated responsible charge as a subordinate to a surveyor registered or licensed to engage in the practice of surveying in this state or another state whose requirements for registration or licensure are equivalent to those of this state.

(d) In addition to compliance with the requirements imposed under Subsection (c) of this section, an applicant who applies for registration as a registered professional land surveyor after January 1, 2003, must hold an earned bachelor's degree conferred by an accredited institution of higher education and including at least 32 semester hours of study, in any combination of courses acceptable to the board, in civil engineering, land surveying, mathematics, photogrammetry, forestry, land law, or the physical sciences.

(e) An applicant who applies for certification as a surveyor-in-training must:

(1) have an earned bachelor of science degree in surveying conferred by an accredited institution of higher education;

(2) have an earned bachelor's [~~bachelor of science~~] degree [~~in another course of study,~~] conferred by an accredited institution of higher education and including at least 32 semester hours, in any combination of courses acceptable to the board, in civil engineering, land surveying, mathematics, photogrammetry, forestry, land law, or the physical sciences, and have at least one year of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively engaged in the practice of professional land surveying;

(3) have an earned associate degree in surveying conferred by an accredited institution of higher education and have at least two years of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively engaged in the practice of professional land surveying;

(4) have successfully completed a course of instruction composed of 32 semester hours in land surveying or the equivalent number of semester hours in board-approved courses related to surveying and have at least two years of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively engaged in the practice of professional land surveying; or

(5) have graduated from an accredited high school, have at least four years of experience acceptable to the board in delegated responsible charge as a subordinate to a registered professional land surveyor actively engaged in the practice of professional land surveying, and present evidence satisfactory to the board that the applicant is self-educated in professional land surveying.

SECTION 4. This Act takes effect September 1, 1995, and applies to conduct that constitutes professional surveying that occurs on or after that date. Conduct that occurred before that date is governed by the law in effect on the date that the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

#### **HB 418 - WITH SENATE AMENDMENTS**

Representative Goodman called up with senate amendments for consideration at this time,

**HB 418**, A bill to be entitled An Act relating to protective orders for family violence; providing a penalty.

Representative Goodman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

#### **HB 418 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 418**: Goodman, chair, Cook, Brady, Van de Putte, and H. Cuellar.

#### **HB 546 - WITH SENATE AMENDMENTS**

Representative Brimer called up with senate amendments for consideration at this time,

**HB 546**, A bill to be entitled An Act relating to the exclusion of unserved property from certain water conservation and reclamation districts.



Representative Brimer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

#### **HB 546 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 546**: Brimer, chair, Crabb, Corte, King, and Yost.

#### **HB 752 - WITH SENATE AMENDMENTS**

Representative Rhodes called up with senate amendments for consideration at this time,

**HB 752**, A bill to be entitled An Act relating to eligibility for certain law enforcement training programs and examinations.

Representative Rhodes moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

#### **HB 752 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 752**: Rhodes, chair, Edwards, McCoulskey, Driver, and Oakley.

#### **HB 814 - WITH SENATE AMENDMENTS**

Representative Coleman called up with senate amendments for consideration at this time,

**HB 814**, A bill to be entitled An Act relating to the restoration, operation, and maintenance of certain historic cemeteries.

Representative Coleman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

#### **HB 814 - APPOINTMENT OF CONFERENCE COMMITTEE**

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 814**: Coleman, chair, Maxey, Dukes, Rusling, and Howard.

#### **HB 1200 - WITH SENATE AMENDMENTS**

Representative Rodriguez called up with senate amendments for consideration at this time,

**HB 1200**, A bill to be entitled An Act relating to the regulation of medical radiologic technologists and other persons who perform radiologic procedures; providing civil and criminal penalties.

On motion of Representative Rodriguez, the house concurred in the senate amendments to **HB 1200**.

### **HB 1200 - TEXT OF SENATE AMENDMENTS**

**CSHB 1200**, A bill to be entitled An Act relating to the regulation of medical radiologic technologists and other persons who perform radiologic procedures; providing civil and criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2.03, Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (13), (14), (15), and (16) to read as follows:

(13) "Direct supervision" means supervision and control by a medical radiologic technologist or a practitioner who assumes legal liability for a student employed to perform a radiologic procedure and enrolled in a program that meets the requirements adopted by rule under Section 2.05 of this Act, and who is physically present during the conduct of a radiologic procedure to provide consultation or direct the action of the student.

(14) "Education program" means clinical training or any other program offered by an organization approved by the Texas Board of Health that:

(A) has a specified objective;

(B) includes planned activities for the participants; and

(C) uses an approved method for measuring the progress of the participants.

(15) "Authorized person" means a person who meets or exceeds the minimum educational standards of the Texas Board of Health under Section 2.05(f) of this Act.

(16) "Registrant" means an individual, other than a practitioner or medical radiologic technologist, who meets the requirements of Section 2.05(f) of this Act.

SECTION 2. Section 2.05, Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsections (f)-(k) to read as follows:

(a) The Texas Board of Health shall adopt rules establishing:

(1) minimum standards for issuing, renewing, suspending, and revoking certificates issued under this Act;

(2) minimum standards for the approval of curricula and education programs to train individuals, registered nurses, and physician assistants to perform radiologic procedures and for rescinding the approval; ~~and~~

(3) minimum standards for the approval of instructors to teach approved curricula or education programs to train individuals to perform radiologic procedures and for rescinding the approval; and

(4) a registry of persons who are required to comply with Subsection (f) of this section.

(f) The minimum standards of the Texas Board of Health for approval of curricula and education programs under Subsection (a) of this section shall include mandatory training guidelines for a person, other than a practitioner or a medical radiologic technologist, who intentionally administers radiation to

another person for medical purposes, including a person who does not hold a certificate issued under this Act who is performing a radiologic procedure under the direction of a practitioner, other than a dentist, or at a hospital. The training program approved by the Texas Board of Health must contain an appropriate number of hours of education that must be completed before the person may perform a radiologic procedure.

(g) The Texas Board of Health with the assistance of other appropriate state agencies shall by rule identify radiologic procedures that are dangerous or hazardous and that may only be performed by a practitioner or a medical radiologic technologist certified under this Act.

(h) Subsection (g) of this section does not apply to a radiologic procedure involving a dental X-ray machine, including a panorex or other equipment designed and manufactured only for use in dental radiography.

(i) On the application to the department by a hospital, federally qualified health center as defined by 42 U.S.C. Section 1396d, or practitioner, the department shall exempt the applicant from the requirements of Subsection (f) of this section in employing a person certified under this Act or trained as required by Subsection (f) of this section if the applicant shows a hardship in employing a person certified under this Act or trained as required by Subsection (f) of this section.

(j) The following conditions are considered to be hardships for the purposes of Subsection (i) of this section:

(1) that the hospital, federally qualified health center, or practitioner reports an inability to attract and retain medical radiologic technologists;

(2) that the hospital, federally qualified health center, or practitioner is located at a great distance from a school of medical radiologic technology;

(3) that there is a list of qualified applicants to a school of medical radiologic technology whose admissions are pending because of a lack of faculty or space;

(4) that the school of medical radiologic technology produces an insufficient number of graduates in medical radiologic technology to meet the needs of the hospital, federally qualified health center, or practitioner; or

(5) any other criteria determined by department rule.

(k) In adopting rules under Subsection (g) of this section, the Texas Board of Health may consider whether the radiologic procedure will be performed by a registered nurse or a licensed physician assistant.

SECTION 3. Section 2.07, Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and adding Subsection (g) to read as follows:

(d) A person who performs a radiologic procedure in a hospital that participates in the federal Medicare program or that is accredited by the Joint Commission on Accreditation of Hospitals and who has completed a training program approved by the Texas Board of Health under Section 2.05(f) of this Act ~~[received appropriate instruction and training in the use and operation of diagnostic radiologic equipment consistent with either the federal Medicare standards for certification of hospitals or the accreditation standards of the Joint Commission on Accreditation of Hospitals]~~ may perform radiologic procedures without a certificate issued under this Act. ~~[A hospital that instructs and trains~~

a person in the performance of radiologic procedures shall develop a protocol for the instruction and training.]

(g) A person is not required to hold a certificate issued under this Act to perform a radiologic procedure if:

(1) the procedure is performed under the supervision of a dentist; and

(2) the person is:

(A) registered with the State Board of Dental Examiners; and

(B) in compliance with rules adopted by that board under

Section 2.08 of this Act.

SECTION 4. Sections 2.08(b) and (c), Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), are amended to read as follows:

(b) Each agency, other than the Board of Nurse Examiners, subject to this Act [section] shall adopt rules in accordance with Chapter 2001, Government Code, [the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)] to regulate the manner in which a licensee of the agency may order, instruct, or direct another authorized person in the performance of radiologic procedures. Rules adopted under this subsection shall allow a practitioner the right to delegate certain designated radiologic procedures to a person not certified under this Act if the delegation is allowed by the regulatory board that licenses the practitioner.

(c) Rules adopted under this section must:

(1) require an authorized [a] person, other than a registered nurse, [who is not certified under this Act] to register with the agency that licenses the practitioner under whom the person performs radiologic procedures;

(2) establish reasonable and necessary fees to cover the administrative costs incurred by the agency in administering a registration program created under this subsection;

(3) establish grounds for the suspension, revocation, or nonrenewal of a registration issued under this subsection; and

(4) [~~identify radiologic procedures that are more dangerous or hazardous and may only be performed by a practitioner or by a medical radiologic technologist certified under this Act;~~

[~~(5) establish safety standards and procedures for the operation of equipment used to perform radiologic procedures; and~~

[~~(6) establish standards, in addition to those required by this Act, for the training and supervision of the operators of the equipment.~~

SECTION 5. Section 2.11, Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.11. DISCIPLINARY ACTIONS. (a) The department is authorized to take the following disciplinary actions for the violation of any provisions of this Act or rules adopted under this Act:

(1) suspension, revocation, or nonrenewal of a certificate; [and]

(2) rescission of curriculum, training program, or instructor approval;

(3) denial of an application for certification or approval;

(4) assessment of a civil penalty in an amount not to exceed \$1,000 for each separate violation of this Act;

(5) issuance of a reprimand; or

(6) placement of the offender's certificate on probation and requiring compliance with a requirement of the department, including submitting to medical or psychological treatment, meeting additional education requirements, passing an examination, or working under the supervision of a medical radiologic technologist or other practitioner.

(b) The procedure by which the department takes a disciplinary action and the procedure by which a disciplinary action is appealed are governed by department rules for a contested case hearing and by Chapter 2001, Government Code [the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)].

(c) The department may take disciplinary action against a person subject to this Act for:

(1) obtaining or attempting to obtain a certificate issued under this Act by bribery or fraud;

(2) making or filing a false report or record made in the person's capacity as a medical radiologic technologist;

(3) intentionally or negligently failing to file a report or record required by law;

(4) intentionally obstructing or inducing another to intentionally obstruct the filing of a report or record required by law;

(5) engaging in unprofessional conduct, including the violation of the standards of practice of radiologic technology established by the Texas Board of Health;

(6) developing an incapacity that prevents the practice of radiologic technology with reasonable skill, competence, and safety to the public as the result of:

(A) an illness;

(B) drug or alcohol dependency; or

(C) another physical or mental condition or illness;

(7) failing to report to the department the violation of this Act by another person;

(8) employing, for the purpose of applying ionizing radiation to a person, a person who is not certified under or in compliance with this Act;

(9) violating a provision of this Act, a rule adopted under this Act, an order of the department previously entered in a disciplinary proceeding, or an order to comply with a subpoena issued by the department;

(10) having a certificate revoked, suspended, or otherwise subjected to adverse action or being denied a certificate by another certification authority in another state, territory, or country; or

(11) being convicted of or pleading nolo contendere to a crime directly related to the practice of radiologic technology.

(d) A person subject to disciplinary action under Subsection (c)(6) of this section shall, at reasonable intervals, be afforded an opportunity to demonstrate that the person is able to resume the practice of radiologic technology.

(e) The Texas Board of Health may not reinstate a certificate to a holder or cause a certificate to be issued to an applicant previously denied a certificate unless the board is satisfied that the holder or applicant has complied with

requirements set by the board and is capable of engaging in the practice of radiologic technology.

(f) The department may take disciplinary action against a student for intentionally practicing radiologic technology without direct supervision.

SECTION 6. Section 2.13(a), Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person who is required to be certified under this Act commits an offense if the person:

(1) knowingly administers a radiologic procedure to another person without holding a valid certificate issued by the department;

(2) practices radiologic technology without holding a certificate under this Act;

(3) uses or attempts to use a suspended or revoked certificate;

(4) knowingly allows a student enrolled in an education program to perform a radiologic procedure without direct supervision;

(5) obtains or attempts to obtain a certificate through bribery or fraudulent misrepresentation;

(6) uses the title or name "certified medical radiologic technologist" or any other name or title that implies the person is certified to practice radiologic technology, unless the person is certified under this Act;

(7) knowingly conceals information relating to enforcement of this Act or rules adopted under this Act; or

(8) employs a person not certified by or in compliance with this Act for the purpose of applying ionizing radiation to a person.

SECTION 7. Section 2.14, Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2.14. **INJUNCTION; CIVIL PENALTY.** (a) If it appears that a person has violated, is violating, or is threatening to violate this Act or a rule adopted under this Act, the Texas Board of Health or the department may bring a civil action to obtain injunctive relief to restrain the continued or threatened violation.

(b) A person who violates this Act or a rule adopted under this Act is subject to a civil penalty in an amount that may not exceed \$1,000 for each day of violation.

(c) At the request of the Texas Board of Health or the department, the attorney general shall bring an action in the name of the state for injunctive relief, to recover a civil penalty, or both, as authorized by this section.

~~[TERMS OF INITIAL MEMBERS; INITIAL MEETING. (a) Four initial members appointed to the Medical Radiologic Technologist Advisory Board serve for terms expiring January 1, 1990, four initial members serve for terms expiring January 1, 1992, and four initial members serve for terms expiring January 1, 1994. The 12 initial members shall draw lots to determine the lengths of their terms. The Texas Board of Health shall make the initial appointments not later than January 1, 1988.~~

~~[(b) The advisory board shall hold its initial meeting by January, 1988, to organize, begin work, and set future meeting dates.]~~

SECTION 8. (a) The Texas Board of Health shall adopt rules relating to the education of persons performing a radiologic procedure not later than January 1, 1996.

(b) A person subject to the requirement of the Texas Board of Health that the person receive the appropriate number of hours of education requirements before performing a radiologic procedure must complete the education requirements approved by the Texas Board of Health on or before January 1, 1998, but may until that date continue to perform radiologic procedures authorized by the Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), and the former law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 1995.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

### **Senate Amendment No. 1**

Amend **CSHB 1200** as follows:

(1) IN SECTION 2 of the bill, in added Section 2.05(f), Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes) (Committee printing, page 1, lines 65 and 66), strike "under the direction of a practitioner, other than a dentist, or at a hospital" and substitute "at a hospital or under the direction of a practitioner, other than a dentist"

### **HB 1551 - WITH SENATE AMENDMENT**

Representative Greenberg called up with a senate amendment for consideration at this time,

**HB 1551**, A bill to be entitled An Act relating to judicial training in family violence, sexual assault, and child abuse issues.

On motion of Representative Greenberg, the house concurred in the senate amendment to **HB 1551**.

### **HB 1551 - TEXT OF SENATE AMENDMENT**

#### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 1551** by striking SECTION 4 of the bill (house engrossed version, page 2, lines 24-27 and page 3, lines 1-7) and substituting the following:

SECTION 4. (a) This Act takes effect August 31, 1995. Each judge who is in office on August 31, 1995, must complete the judicial training required by Section 22.110, Government Code, as added by this Act, notwithstanding the requirement of that section that it be completed within the first term of office. The training must be completed before the judge who is in office on August 31, 1995, begins another term of office as a judge.

(b) A judge who takes office on or after September 1, 1995, and who has not otherwise satisfied the requirements of Section 22.110(b), Government Code, as added by this Act, must complete the judicial training required by that section within the judge's first term of office that begins on or after that date.



**HB 1785 - WITH SENATE AMENDMENT**

Representative Kuempel called up with a senate amendment for consideration at this time,

**HB 1785**, A bill to be entitled An Act relating to certain Parks and Wildlife Department admissions fees, license requirements, and exemptions.

On motion of Representative Kuempel, the house concurred in the senate amendment to **HB 1785**. (Finnell, Horn, Kubiak, Solomons, and Telford recorded voting no)

**HB 1785 - TEXT OF SENATE AMENDMENT****Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Substitute the following language for Section 1(a)(1), Section 1(d) and Section 3(d):

Sec. 1(a)(1) a resident of this state who is 65 years old or over who has resided in the state for six consecutive months preceding the date of application for a parklands passport, a member of the United States armed forces on active duty who is 65 years old or over, or any other individual in a category that the commission by rule designates as a resident of this state [person] who is 65 years old or over; and

Sec. 1(d) The department may discount or waive a park entrance fee for a resident of this state issued an initial state parklands passport after August 31, 1995. When a fee is charges by the department for entrance of a vehicle into a state park, the vehicle of the holder of an initial state parklands passport may enter any state park on payment of a lower vehicle entrance fee. The department may waive vehicle entrance fees for any state park for the holder of an initial state parklands passport.

Sec. 3(d) ~~[(c)]~~ The nonresident ~~[or alien]~~ fishing license fee is \$15 or an amount set by the commission, whichever amount is more.

**HB 1964 - WITH SENATE AMENDMENT**

Representative Oakley called up with a senate amendment for consideration at this time,

**HB 1964**, A bill to be entitled An Act relating to the issuance of permits by the Parks and Wildlife Department for the conservation, protection, and management of certain wildlife resources; providing penalties.

On motion of Representative Oakley, the house concurred in the senate amendment to **HB 1964**.

**HB 1964 - TEXT OF SENATE AMENDMENT****Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 1964** by striking SECTION 10.

**HB 2042 - WITH SENATE AMENDMENT**

Representative Hochberg called up with a senate amendment for consideration at this time,



**HB 2042**, A bill to be entitled An Act relating to civil remedies for certain nuisances.

On motion of Representative Hochberg, the house concurred in the senate amendment to **HB 2042**.

### **HB 2042 - TEXT OF SENATE AMENDMENT**

#### **Senate Amendment No. 1**

Amend SECTION 2 of **HB 2042** by amending Section 125.046 by adding Subsections (e), (f) and (g) to read as follows:

(e) A receiver appointed by the court may:

- (1) take control of the property;
- (2) collect rents due on the property;
- (3) make or have made any repairs necessary to bring the property into compliance with minimum standards in local ordinances;
- (4) make payments necessary for the maintenance or restoration of utilities to the properties;
- (5) purchase materials necessary to accomplish repairs;
- (6) renew existing rental contracts and leases;
- (7) enter into new rental contracts and leases;
- (8) affirm, renew, or enter into a new contract providing for insurance coverage on the property; and
- (9) exercise all other authority that an owner of the property would have except for the authority to sell the property.

(f) Expenditures of monies by the receiver in excess of ten thousand dollars under Subdivisions (3) and (5) of Section (e) shall require prior approval of the court.

(g) On the completion of the receivership, the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and subdivision, and all income received from the property.

### **HB 2168 - WITH SENATE AMENDMENTS**

Representative Kuempel called up with senate amendments for consideration at this time,

**HB 2168**, A bill to be entitled An Act relating to participation and credit in, contributions to, and benefits and administration of the Texas Municipal Retirement System.

On motion of Representative Kuempel, the house concurred in the senate amendments to **HB 2168**.

### **HB 2168 - TEXT OF SENATE AMENDMENTS**

#### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 2168** by adding new sections 21 and 22 to read as follows and by renumbering the current sections 21 and 22 accordingly:

SECTION 21. Section 854.102, Government Code, is amended by adding Subsection (g) to read as follows:

(g) A member is eligible to retire and receive a service retirement annuity if the member has at least 20 years of credited service in the retirement system performed for one or more municipalities that have adopted a like provision under Section 843.202(g).

SECTION 22. Section 854.202, Government Code, is amended by adding Subsection (g) (h) and (i) to read as follows:

(g) The governing body may authorize a member to retire and receive a service retirement benefit if the member has at least 20 years of credited service performed for one or more municipalities that have authorized eligibility under this subsection.

(h) Before a governing body may elect to authorize a member to retire pursuant to Subsection (g), the governing body shall:

(1) prepare an actuarial analysis of member retirement annuities at 20 years of service; and

(2) hold a public hearing.

(i) The public hearing required under Subsection (h) shall be held pursuant to the notice provisions of the Texas Open Meetings Act, Chapter 551 Texas Government Code.

## **Senate Amendment No. 2**

Amend **HB 2168** as follows:

1) Add a new, appropriately numbered SECTION to read as follows:

SECTION 1 Section 852.005, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) For the purposes of this subtitle, a fire or police department has the standing of a municipality of:

(1) the department:

(A) was created and is operating under an interlocal cooperation agreement that has existed at least 15 years and was executed by two or more municipalities located in a county with a population of at least two million;

(B) is supervised by an administrative agency appointed by the contracting municipalities; and

(C) provides common fire protection or law enforcement services to the contracting municipality; and

(2) the governing body of each municipality that is a party to the agreement has voted by ordinance or resolution to accept responsibility, in a manner to be determined by the participating municipalities, for all payments required of and obligations incurred by the department under this subtitle in the event that the interlocal cooperation agreement is dissolved or expires, all ordinances adopted by the participating municipalities with regard to such participation are approved by the Board of Trustees.

(d) The governing board of the supervising administrative agency by order may take an action for a department described by Subsection (c) that is required or authorized by this subtitle to be made by municipal ordinance.

2) Renumber remaining Sections accordingly.

## **HB 2069 - WITH SENATE AMENDMENT**

Representative Hill called up with a senate amendment for consideration at this time,

**HB 2069**, A bill to be entitled An Act relating to the disannexation of certain land by a municipality.

On motion of Representative Hill, the house concurred in the senate amendment to **HB 2069**.

### **HB 2069 - TEXT OF SENATE AMENDMENT**

#### **Senate Amendment No. 1 (Senate Committee Amendment No. 1)**

Amend **HB 2069**, SECTION 1, Sec. 43.147 by adding after "43.054" and before the "." the following: "unless such disannexation is undertaken with the mutual agreement of the county government and the municipality"

### **HB 2313 - WITH SENATE AMENDMENTS**

Representative Stiles called up with senate amendments for consideration at this time,

**HB 2313**, A bill to be entitled An Act relating to abolition of the Lamar University System and the transfer of the institutions in that system to the Texas State University System.

On motion of Representative Stiles, the house concurred in the senate amendments to **HB 2313**.

### **HB 2313 - TEXT OF SENATE AMENDMENTS**

**CSHB 2313**, A bill to be entitled An Act relating to abolition of the Lamar University System and the transfer of the institutions in that system to the Texas State University System, and to the actions and functions of the board of regents of the Texas State University System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ABOLITION OF BOARD AND SYSTEM. The Lamar University System and the board of regents of the Lamar University System are abolished.

SECTION 2. TRANSFER OF INSTITUTIONS. (a) The governance, operation, management, and control of Lamar University and its educational centers, including Lamar University at Orange, Lamar University at Port Arthur, and Lamar University Institute of Technology, along with all right, title, and interest in the land, buildings, facilities, improvements, equipment, supplies, and property comprising those institutions are transferred from the board of regents of the Lamar University System to the board of regents of the Texas State University System.

(b) Rules and policies adopted by the board of regents of the Lamar University System to govern the component institutions of that system that are in effect when the transfer takes effect are continued in effect until adopted, repealed, or superseded by the board of regents of the Texas State University System. The board of regents of the Texas State University System may adopt rules and policies applicable to the component institutions of the Lamar University System in anticipation of the transfer authorized by this Act.

SECTION 3. POWERS AND DUTIES. The board of regents of the Texas State University System shall undertake to govern, operate, manage, and control

Lamar University and its educational centers, including Lamar University at Orange, Lamar University at Port Arthur, and Lamar University Institute of Technology, and all land, buildings, facilities, improvements, equipment, supplies, and property comprising that institution pursuant to the powers, duties, and responsibilities that are or may be conferred by law upon the board of regents of the Texas State University System for the governance, operation, management, and control of component institutions comprising that system.

SECTION 4. APPROPRIATIONS. Appropriations made by the legislature for the use and benefit of Lamar University and its educational centers, including Lamar University at Orange, Lamar University at Port Arthur, and Lamar University Institute of Technology, under the governance of the board of regents of the Lamar University System are transferred to the board of regents of the Texas State University System for the use and benefit of that institution. Other funds held for the use and benefit of Lamar University and its educational centers, including Lamar University at Orange, Lamar University at Port Arthur, and Lamar University Institute of Technology, shall continue to be available for the use and benefit of those institutions notwithstanding the change in governance made by this Act.

SECTION 5. CONTRACTS AND WRITTEN OBLIGATIONS. Contracts and written obligations of every kind and character, including bonds, entered into by the board of regents of the Lamar University System for and on behalf of Lamar University and its educational centers, including Lamar University at Orange, Lamar University at Port Arthur, and Lamar University Institute of Technology, are ratified, confirmed, and validated. In those contracts and written obligations, including bonds, the board of regents of the Texas State University System is substituted for and stands and acts in the place of the board of regents of the Lamar University System.

SECTION 6. EFFECT OF TRANSFER. (a) The transfer of governance, operation, management, and control of Lamar University and its educational centers, including Lamar University at Orange, Lamar University at Port Arthur, and Lamar University Institute of Technology, from the board of regents of the Lamar University System to the board of regents of the Texas State University System does not affect:

(1) the credit hours earned by students at those institutions before the effective date of this Act; or

(2) the employment status on the effective date of this Act of the administrative, faculty, or support staff of those institutions.

(b) This section does not limit the authority of the board of regents of the Texas State University System to evaluate or reassign staff or to take any other personnel action relating to the staff of those institutions as the board determines in the best interest of the university.

SECTION 7. AMENDMENT. Chapter 96, Education Code, is amended by adding Subchapter E to read as follows:

**SUBCHAPTER E. LAMAR UNIVERSITY AND RELATED INSTITUTIONS**

**Sec. 96.701. LAMAR UNIVERSITY.** Lamar University is a coeducational institution of higher education located in the city of Beaumont. The university is under the management and control of the board of regents, Texas State University System.

Sec. 96.702. SPINDLETOP MEMORIAL MUSEUM. The board may create the Spindletop Memorial Museum at Lamar University and may administer the museum as the board considers appropriate.

Sec. 96.703. LAMAR UNIVERSITY INSTITUTE OF TECHNOLOGY. (a) The board shall establish and maintain an educational center of Lamar University as a separate degree-granting institution to be known as Lamar University Institute of Technology.

(b) The primary purpose of the institute is to teach technical and vocational courses and related supporting courses. The board may confer degrees appropriate to the institute's curriculum.

Sec. 96.704. EDUCATIONAL CENTERS AT PORT ARTHUR AND ORANGE. (a) The board shall establish and maintain coeducational lower-division institutions of higher education as separate accredited degree-granting institutions in the counties of Jefferson and Orange, to be known as Lamar University at Port Arthur and Lamar University at Orange, to teach only freshman- and sophomore-level courses.

(b) The board may acquire, construct, or otherwise make provision for adequate physical facilities for use by Lamar University at Port Arthur and Lamar University at Orange and may accept and administer, on terms and conditions satisfactory to the board, grants or gifts of money or property tendered by any reason for the use and benefit of the school.

(c) The board with approval of the Texas Higher Education Coordinating Board may prescribe courses leading to customary degrees. The board may make other rules and regulations for the operation, control, and management of Lamar University at Port Arthur and Lamar University at Orange as are necessary for each institution to be a first-class institution for freshman and sophomore students.

(d) Nothing in this section shall be construed to limit the powers of the board as conferred by law.

(e) For Lamar University at Port Arthur and Lamar University at Orange, the board may expend funds allocated to Lamar University under Chapter 62 for any of the purposes listed in Section 17, Article VII, Texas Constitution, in the same manner and under the same circumstances as expenditures for those purposes for other separate degree-granting institutions.

Sec. 96.705. APPLICATION OF OTHER LAW. All other provisions of law, including provisions for student fees, applicable to institutions of the Texas State University System apply to Lamar University and its educational centers.

Sec. 96.706. HAZARDOUS WASTE RESEARCH CENTER. (a) The Hazardous Waste Research Center is established at Lamar University at Beaumont. The center is under the authority of the board of regents of the Texas State University System. The center may employ such personnel as are necessary.

(b) The center shall carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative technologies that may be used in minimization, destruction, or handling of hazardous wastes to achieve better protection of human health and the environment.

(c) The center shall provide coordination of the activities of a consortium of Texas universities initially consisting of the Texas Engineering Experiment

Station of The Texas A&M University System, the University of Houston, The University of Texas at Austin, and Lamar University at Beaumont, and other entities that may become affiliated.

(d) The center shall develop and maintain a database relevant to the programs of the center.

(e) The programs of the center may include:

- (1) primary and secondary research;
- (2) collection, analysis, and dissemination of information;
- (3) the development of public policy recommendations;
- (4) training related to the handling and management of hazardous waste;
- (5) evaluation of technologies for the treatment and disposal of hazardous wastes;

(6) demonstration projects and pilot studies of processing, storage, and destruction technologies; and

(7) other services consistent with the purposes of the program.

(f) In carrying out its established programs, the center may enter into agreements with:

- (1) the members of the Texas Consortium;
- (2) other universities in Texas, Louisiana, Mississippi, Alabama, Florida, and other states;
- (3) private research organizations; and
- (4) industry.

(g) A policy board is created to determine the policies for program research, evaluation, testing, development, demonstration, intellectual property rights, and peer review. The policy board consists of each member of the consortium. The governing board of each institution of higher education belonging to the consortium shall appoint an individual to serve as a member of the policy board.

(h) The institutions of higher education that are members of the policy board shall appoint an advisory council to develop recommendations on the priorities for research and to serve as a resource group on the projects. Each institution shall appoint two members from private industry and two other members to serve for terms to be set by the policy board.

(i) The center shall seek grant and contract support from federal and other sources to the extent possible and accept gifts and donations to support its purposes and programs.

(j) The center may receive state-appropriated funds as considered appropriate by the legislature.

(k) Disbursement of funds received by the center on behalf of the consortium shall be on an equitable basis and in accordance with policy determined by the policy board subject to laws of the state and policies of member institutions. Disbursement policy shall recognize the need for core program support at each consortium institution, matching requirements for federal grants and contracts, general administration, and new initiatives. Disbursement of funds received in response to specific proposals shall be in accordance with those proposals.

Sec. 96.707. TEXAS ACADEMY OF LEADERSHIP IN THE HUMANITIES. (a) The Texas Academy of Leadership in the Humanities is

established as a two-year program at Lamar University at Beaumont for secondary school students selected under this section. The academy is under the management and control of the board of regents of the Texas State University System.

(b) The goals of the academy are to:

(1) provide gifted and talented secondary school students with accelerated academic experiences to ensure success as undergraduates with advanced standing;

(2) encourage those students to develop their full leadership potential and their ethical decision-making capabilities;

(3) provide those students with academic and social role models and mentors to motivate them to pursue academic excellence and self-direction;

(4) provide a model setting for the training of teachers in the educational materials and methods appropriate for gifted learners;

(5) encourage the cooperation of business leaders and Lamar University staff to provide practical settings and experiences for those students through independent study, shadowing, and mentorship;

(6) establish a setting to support necessary research to determine the academy's effectiveness and to disseminate results of that research; and

(7) promote the active involvement of parents in all educational programs of the academy.

(c) To be eligible for admission to the academy, a student must:

(1) complete and file with the board, on a form prescribed by the board, an application for admission and a written essay on a topic selected by the board;

(2) have successfully completed 10th grade in school;

(3) be nominated by a teacher, school administrator, parent, community leader, or another secondary school student;

(4) submit to the board two written recommendations from teachers;

(5) have a composite score on an assessment test that is equal to or greater than the equivalent of 1,000 on the Scholastic Aptitude Test;

(6) have a language score on an assessment test that is equal to or greater than the equivalent of 550 on the Scholastic Aptitude Test; and

(7) have complied with any other requirements adopted by the board under this subchapter.

(d) The board shall recruit minority secondary school students to apply for admission to the academy.

(e) The board shall select for admission to the academy eligible students based on additional testing required by the board and on a personal interview by a selection committee appointed by the board. If the board selects an eligible student for admission to the academy, the board shall send written notice to the student and the student's school district.

(f) The board shall establish a tuition and fee scholarship for each student who enrolls in the academy. A student who enrolls in the academy is responsible for room, board, and book costs and must live in a residence determined by board rule.

(g) The academy courses are taught by the faculty members of Lamar University. The board may employ additional staff for the academy.



(h) The board shall provide each student enrolled in the academy with a mentor who is a faculty member at Lamar University to assist the student in completing the student's course of study in the academy.

(i) A student of the academy may attend a college course offered by Lamar University and receive college credit for that course.

(j) The board may accept gifts and grants from a public or private source for the academy.

SECTION 8. AMENDMENT. Section 54.523, Education Code, is amended by amending Subsections (a) and (c) and adding new Subsection (e) to read as follows:

(a) To the extent approved by the students under Subsection (b) of this section, the board of regents of the Texas State University System may charge each student enrolled in a university or educational center under its authority a student center fee not to exceed \$70 per semester or \$35 per six-week summer term to be used to construct, operate, maintain, improve, and program a student center at the university or educational center at which the student is enrolled.

(c) The chief fiscal officer of each university operating a student center, either on its central campus or at an educational center of the university, shall collect the student center fee and shall deposit the money received into an account known as the student center account.

(e) The board may charge a student center fee under this section at Lamar University or an educational center of Lamar University in the amount charged at the appropriate institution in the 1994-1995 academic year under former Section 54.517 or 108.361 as approved by a majority of the students of the institution voting in an election called for that purpose, as if the fee had been approved by a majority vote of the students under this section. Revenue from the fee charged under this section at an educational center of Lamar University may be used to pay the principal of and interest on revenue bonds issued under former Section 108.361 for the purpose of constructing a student center at the educational center.

SECTION 9. AMENDMENT. Section 62.021, Education Code, is amended by adding Subsection (e) to read as follows:

(e) The amount allocated by Subsection (a) to Lamar University and its educational centers is considered part of the amount allocated by Subsection (a) to the Texas State University System administration and its component institutions, to be spent as provided by Subsection (b) in the sole discretion of the governing board of the Texas State University System for the system and its institutions.

SECTION 10. AMENDMENT. Section 12.1105(e), Parks and Wildlife Code, is amended to read as follows:

(e) The Parks and Wildlife Department, when requested by authorized representatives of units of The University of Texas System, The Texas A&M University System, the Texas A&I University System, Pan American University, and the Texas State [Lamar] University System~~[-and Southwest Texas State University]~~, engaged in teaching and research related to marine science and oceanography, may transfer to such units of said universities and university systems nets, seines, and other marine equipment, which have been seized under



this section, to be used in carrying out the teaching and research programs within said institutions.

**SECTION 11. VALIDATION.** (a) All proceedings of the board of regents of the Lamar University System authorizing the issuance of bonds, notes, or other evidences of indebtedness entered into by, or on behalf of, the board of regents of the Lamar University System prior to the effective date of this Act are hereby validated, confirmed, and ratified, to the extent and in the manner set forth in the proceedings of the board of regents of the Lamar University System. The board of regents, Texas State University System, is hereby authorized to fix, collect, pledge, and apply rentals, rates, charges, and/or fees from students and others attending the institutions of the Lamar University System to the same extent, with the same effect, and in the same manner as said board of regents fixes, collects, pledges, and applies rentals, rates, charges, and/or fees from students attending other Texas State University System components, any other provision of law notwithstanding.

(b) The board of regents, Texas State University System, shall assume all of the rights, duties, and obligations of the board of regents of the Lamar University System with respect to all outstanding bonds, notes, and other evidences of indebtedness, as of the effective date of this Act. Any actions taken by the board of regents, Texas State University System, its members, officers, or employees with respect to the transition and merger of the Lamar University System into the Texas State University System shall be presumed as a matter of law to have been taken within the board's, member's, officer's, or employee's official capacity, in good faith, and within the exercise of discretionary governmental authority. To the limited extent of actions taken under this Act, the sovereign immunity of the state is affirmed; and the board of regents, Texas State University System, its members, officers, employees, and institutions shall be immune from legal action relating to actions taken with respect to the transition and merger of the Lamar University System, any other provision of the law notwithstanding.

(c) The provisions of this section shall not be construed as validating any actions or proceedings or bonds, notes, evidences of indebtedness, contracts, or agreements that are involved in litigation questioning the validity thereof on the effective date of this Act if such litigation is ultimately determined against the validity thereof.

**SECTION 12. REPEALER.** The following provisions of the Education Code are repealed:

- (1) Section 54.517;
- (2) Chapter 108; and

(3) Section 54.523(e), as that section exists immediately before this Act takes effect.

**SECTION 13. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

**Senate Amendment No. 1**

Amend **CSHB 2313** by striking SECTION 13 (the emergency section) and substituting the following:

SECTION 13. This Act takes effect September 1, 1995.

SECTION 14. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

**HB 2726 - WITH SENATE AMENDMENTS**

Representative Romo called up with senate amendments for consideration at this time,

**HB 2726**, A bill to be entitled An Act relating to tax-exempt private activity bonds and housing finance corporations.

Representative Romo moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion was withdrawn.

**HB 2781 - WITH SENATE AMENDMENT**

Representative Hightower called up with a senate amendment for consideration at this time,

**HB 2781**, A bill to be entitled An Act relating to the appointment of bailiffs for certain district courts.

On motion of Representative Hightower, the house concurred in the senate amendment to **HB 2781**.

**HB 2781 - TEXT OF SENATE AMENDMENT****Senate Amendment No. 1**

Amend **HB 2781** by striking SECTION 3 in its entirety.

**HB 3072 - WITH SENATE AMENDMENT**

Representative Gallego called up with a senate amendment for consideration at this time,

**HB 3072**, A bill to be entitled An Act relating to the use of solid waste fee revenues.

On motion of Representative Gallego, the house concurred in the senate amendment to **HB 3072** by (Record 517): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego;

Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker; Black(C).

Absent, Excused — Carona; Wilson.

Absent — Hudson; Moreno; Price; Saunders; Telford.

### STATEMENT OF VOTE

When Record No. 517 was taken, I was temporarily out of the house chamber. I would have voted no.

Telford

### HB 3072 - TEXT OF SENATE AMENDMENT

#### Senate Amendment No. 1

Amend **HB 3072** as follows:

In SECTION 1, amend subsection (a) of Section 361.014, Health and Safety Code, by striking subdivision (12).

### HB 3235 - WITH SENATE AMENDMENTS

Representative Hightower called up with senate amendments for consideration at this time,

**HB 3235**, A bill to be entitled An Act relating to the creation of certain judicial districts and to the offices of district attorney of certain judicial districts.

Representative Hightower moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed without objection.

### HB 3235 - APPOINTMENT OF CONFERENCE COMMITTEE

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3235**: Hightower, chair, Pitts, Alexander, Thompson, and Gallego.

### SB 369 ON THIRD READING (Black - House Sponsor)

The chair laid before the house, as postponed business, on its third reading and final passage,

**SB 369**, A bill to be entitled An Act relating to the continuation and functions of the State Preservation Board.

The bill was read third time on May 16, postponed until May 18, postponed until May 22, and again postponed until 10 a.m. today.

**SB 369** was passed.

(Speaker in the chair)

**SB 1135 ON THIRD READING**  
**(Stiles - House Sponsor)**

The speaker laid before the house, as postponed business, on its third reading and final passage,

**SB 1135**, A bill to be entitled An Act relating to the Commission on Law Enforcement Officer Standards and Education.

The bill was read third time on May 19, postponed until May 22, and again postponed until 10 a.m. today.

**Amendment No. 1**

Representative Stiles offered the following amendment to the bill:

Amend **SB 1135** on third reading on page 7, line 23, by striking the word "and" and substituting the word "or".

Amendment No. 1 was adopted without objection.

**SB 1135**, as amended, was passed.

**SB 673 ON THIRD READING**  
**(Berlanga - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 673**, A bill to be entitled An Act relating to health care, including powers and duties of the center for rural health initiatives, powers and duties of registered nurses and physician assistants, managed health care plans for certain inmates, and health facilities and services for the elderly or disabled.

The bill was read third time.

**Amendment No. 1**

Representative Rodriguez offered the following amendment to the bill:

Amend **SB 673** by adding the following new sections:

SECTION \_\_\_\_\_. Section 1(A), Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1A. POLICY STATEMENT. (a) It is policy of this state that the activities of a person who provides services to the public as a counselor and uses the title licensed professional counselor should be regulated to protect the health, safety, and welfare of the public.

(b) Nothing in this Act may be construed as permitting the practice of medicine as defined by the laws of this state.

SECTION \_\_\_\_\_. Sections 2(6) and (7), Licensed Professional Counselor

Act (Article 4512g, Vernon's Texas Civil Statutes), are amended to read as follows:

(6) "Counseling treatment intervention [services]" means the application of cognitive, affective, behavioral, psychodynamic and systemic counseling strategies, including strategies for developmental, wellness, and psychological dysfunction that reflect a pluralistic society. [those acts and behaviors coming within the meaning of the practice of counseling]. The term shall not be interpreted to permit or include the diagnosis or treatment of a physical condition or disorder. The term includes: interventions specifically implemented in the context of a professional counseling relationship; individual, group, and family counseling and psychotherapy; the assessment, evaluation, and treatment of persons with mental, emotional, and behavioral disorders; guidance and consulting to facilitate normal growth and development, including educational and career development; the use of functional assessment and counseling for persons requesting assistance in adjustment to a disability or handicapping condition; research; and referrals. The use of specific methods, techniques, or modalities within the practice of professional counseling is limited to professional counselors appropriately trained in the use of such methods, techniques or modalities.

(7) "Practice of professional counseling" means the application of mental health, psychotherapeutic, and human development principals to:

(A) facilitate human development and adjustment throughout the life span:

(B) prevent, assess, evaluate, and treat mental, emotional or behavioral disorders and associated distresses, that interfere with mental health;

(C) conduct assessments and evaluations to establish treatment goals and objectives; and

(D) plan, implement, and evaluate treatment plans using counseling treatment interventions [rendering or offering to render, to individuals, couples, families, groups, organizations, or the general public; counseling or guidance services, for compensation, involving the application of principles, methods, or procedures of the counseling profession] that includes:

(i) [(A)] "counseling" which means assisting one or more clients through the therapeutic relationship, using a combination of mental health and human development principles, methods, and techniques, including the use of psychotherapy, to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life;

(ii) [(B)] "assessment [appraisal activities]" which means selecting, administering, scoring, and interpreting instruments designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, [and] personal characteristics, disabilities, and mental, emotional and behavioral disorders and the use of methods and techniques for understanding human behavior that may include the evaluation, assessment, and treatment by counseling methods, techniques, and procedures for mental and emotional disorders, alcoholism and substance abuse, and [other habit or] conduct disorders but does not include the use of standardized projective techniques or permit the diagnosis of a physical condition or disorder [in the assessment of personality];

(iii) [(C)] "~~[counseling, guidance, and personnel consulting]~~" which means the application of scientific principles and procedures in counseling and human development to provide assistance in understanding and solving current or potential problems that the person seeking consultation may have with regard to the third party, including an individual, group, or an organization ~~[interpreting or reporting on scientific fact or theory in counseling, guidance, and personnel services to provide assistance in solving some current or potential problems of individuals, couples, families, groups, or organizations];~~ and

(iv) [(D)] "referral" which means evaluating and identifying needs of a counselee to determine the advisability of referral to other specialists, informing the counselee of such judgment, and communicating as requested or deemed appropriate to such referral sources.

SECTION \_\_\_\_\_. Section 3(a), Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. (a) Except as provided by Subsection (b) of this section, this Act does not apply to:

(1) the activities and services of or use of an official title by a person employed as a counselor by a federal, state, county, or municipal agency or public or private educational institution, if the person is performing counseling or counseling-related activities within the scope of his employment;

(2) the activities and services of a student, intern, or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution or higher education or training institution, if these activities and services constitute a part of the supervised course of study and the person is designated a "counselor intern";

(3) the activities and services of a nonresident rendered not more than 30 days during any year, if the person is authorized to perform the activities and services under the law of the state or country of his residence;

(4) the activities and services of other professions licensed or certified by the state, such as physicians, registered nurses, psychologists, certified social workers, licensed marriage and family therapists, licensed chemical dependency counselors, licensed physician assistants, licensed optometrists in the evaluation and remediation of learning or behavioral disabilities associated with or caused by a defective or abnormal condition of visions, Christian Science practitioners who are recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, or other recognized religious practitioners performing counseling consistent with the laws of the state, their training, and any code of ethics of their professions, if they do not represent themselves by any title or description in the manner prescribed by Section 2 of this Act;

(5) the activities, services, titles, and descriptions of persons licensed to practice law;

(6) the activities, services, titles, and descriptions of person employed as professionals or who are volunteers in the practice of counseling for public and private nonprofit organizations or charities who are accountable to the persons' sponsoring organization and do not use the title or hold themselves out to be licensed counselors;

~~[(7) persons supervised by a physician and recognized as physician assistants by the Texas State Board of Medical Examiners, if the persons act strictly within their scope of practice and do not use the titles covered by Section 15(b)(3) of this Act;] or~~

(7) [(8)] person owning, operating, or employed by a certified career counseling service regulated under Chapter 222, Acts of the 70th Legislature, Regular Session, 1987 (Article 5221a-8, Vernon's Texas Civil Statutes).

SECTION \_\_\_\_\_. Section 10, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 10. APPLICANT QUALIFICATIONS. (a) A person is a qualified applicant if the person:

(1) is at least 18 years old;

(2) has submitted an application as required by the board, accompanied by the application fee set by the board; the board may require that the statements on the application be made under oath;

(3) has a master's or doctorate degree in counseling or a related field;

(4) has successfully completed a graduate degree at a regionally accredited institution of higher education and a planned graduate program of 48 graduate semester hours or the substantial equivalent, including 300 clock hours of supervised practicum that is primarily counseling in nature and that meets the specific academic course content and training standards established by the board. The board shall review and consider the standards as developed by the appropriate professional association;

(5) has completed 24 months or 2,000 hours of supervised experience working in a counseling setting that meets the requirements established by the board after the completion of the 48 graduate semester hour or equivalent graduate program;

(6) has successfully completed the examination required under this Act; and

(7) has met the requirements prescribed by the board.

(b) A person may complete not more than six of the 48 graduate semester hours required under Subsection (a)(4) of this section during or after the time the person completes the 2,000 hours of supervised work experience required under subsection (a)(5) of this section if, at the time the person began the work experience, the person possessed a graduate degree and a lesser number of hours was required by the law of this state or the law in effect where the work experienced was performed.

SECTION \_\_\_\_\_. The Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended by adding a new Section 10A to read as follows:

Sec. 10A. QUALIFICATIONS FOR SPECIALIZATION IN ART THERAPY. (a) A person is a qualified applicant for licensing as a professional counselor with a specialization in art therapy if the person:

(1) meets the requirements for a license as a professional counselor under Section 10 of this Act;

(2) holds either:

(A) a master's or doctoral degree in art therapy that includes 600 hours of supervised practicum from an accredited institution except that on



or after September 1, 1996, applicants must have 700 hours of supervised practicum from an accredited institution;

(B) a master's degree in a counseling related field and has a minimum of 21 semester hours of sequential course work in the history, theory, and practice of art therapy and has completed 600 hours of supervised practicum from an accredited institution except that on or after September 1, 1996, applicants must complete 700 hours of supervised practicum from an accredited institution;

(3) has completed 1,000 client contact hours under supervision of a nationally registered art therapist or other supervisor acceptable to the board as part of the supervised work experience requirement in Section 10(a)(5) of this Act; except that on or after September 1, 1996, an applicant must complete 1,000 client contact hours beyond the requirements in Subdivision (2)(A) of this subsection under supervision of a licensed professional counselor with a specialization in art therapy; or 2,000 client contact hours beyond the requirements in Subdivision (2)(B) of this subsection under supervision of a nationally registered art therapist or other supervisor acceptable to the board, and on or after September 1, 1998, an applicant must complete 2,000 client contact hours of postgraduate experience beyond the requirements in Subdivision (2)(B) of this subsection under supervision of a licensed professional counselor with a specialization in art therapy; and

(4) has successfully completed the national Certification Examination in Art Therapy of the Art Therapy Credentials Board.

(b) The board shall accept an individual course from a art therapy program accredited through the American Art Therapy Association as satisfying the education requirements under Subsection 10(a)(4) of this Act if not less than 75 percent of the course content is substantially equivalent to the content of a course required by board rule.

(c) A counselor intern pursuing a course of study in an art therapy program accredited by the American Art Therapy Association may use the designation "art therapy intern".

SECTION\_\_\_\_. Section 12, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended by adding new Subsections (e) and (f) to read as follows:

(e) An applicant for licensure with a specialization in art therapy must submit evidence of the successful completion of the examination required by Section 10A of this Act.

(f) An applicant who meets the requirements for licensing by endorsement under Section 18(a) of this Act is exempt from the examination administered under this section.

SECTION\_\_\_\_. Subsection 14(d), Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Each year the board shall prepare a registry of licensed professional counselors. The registry shall include listings of any specializations permitted by law or by board rule. The registry shall be made available to the licensees, other state agencies, and the general public upon request.

SECTION\_\_\_\_. Section 14, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (s) to read as follows:



(s) The board by rule may provide for the issuance of a temporary license to a person who:

(1) has completed not less than 42 graduate semester hours of the education requirements under Subsection 10(a)(4) of this Act in an art therapy program accredited by the American Art Therapy Association;

(2) has completed the supervised work experience requirements under Subsection 10A(a)(3) of this Act;

(3) has passed the examination required under Subsection 10A(a)(4) of this Act;

(4) is a registered art therapist with the American Art Therapy Association and may use the title "A.T.R." in the practice of art therapy;

(5) represents himself or herself to the public as an "art therapist";

(6) limits the scope of practice to art therapy, as defined by board rule;  
and

(7) files a plan acceptable to the board for a course of study to complete the additional graduate semester hours necessary to satisfy the education requirements under Section 10(a)(4) of this Act.

SECTION\_\_\_\_. Section 15, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15. LICENSE REQUIRED; PENALTY. (a) Unless the person is exempt under Section 3 of this Act, a person may not engage ~~on or after January 1, 1994,~~ in the practice of counseling without a license issued under this Act.

(b) A person commits an offense if the person knowingly or intentionally:

(1) engages in the practice of counseling without holding a license issued under this Act;

(2) engages in the practice of counseling after the person's license under this Act has expired;

(3) represents the person by the title "Licensed Professional Counselor" or "Licensed Counselor" without being licensed under this Act; ~~or~~

(4) represents the person by the title "Licensed Professional Counselor - Art Therapist", "Art Therapist", or by the initials "L.P.C. - A.T." or "A.T." without being licensed with a specialization in art therapy under Section 10A of this Act or without being licensed under Subsection 14(s) of this Act; or

(5) makes use of any title, words, letters, or abbreviations that imply that the person is licensed under this Act if the person is not licensed under this Act.

SECTION\_\_\_\_. Section 16(a) Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes) as amended by Section 2.06, Chapter 573, and Section 14, Chapter 581, Acts of the 73rd Legislature, 1993, is amended to read as follows:

(a) The board shall revoke, suspend, suspend on an emergency basis, or refuse to renew the license of a counselor, place on probation a counselor whose license has been suspended, or reprimand a counselor if the counselor:

(1) has committed an act in violation of Section 21.14, Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code;

(2) has violated this Act or a rule or code of ethics adopted by the Board;

(3) is legally committed to an institution because of mental incompetence from any cause; or

(4) [(3)] offers to pay or agrees to accept any remuneration, directly or indirectly, to or from any person or entity for securing or soliciting a patient or patronage.

SECTION \_\_\_\_\_. Section 18(a), Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board may grant, on application and payment of fees, a provisional license to a person who at the time of application holds a valid license [~~or certificate~~] as a counselor or art therapist issued by another state or any political territory or jurisdiction acceptable to the board. An applicant for a provisional license under this section must:

(1) be licensed and in good standing as a counselor or art therapist in another state, territory or jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this Act;

(2) have passed a national or other examination recognized by the board relating to counseling or art therapy; and

(3) be sponsored by a person licensed by the board under this Act with whom the provisional licensee may practice under this section.

SECTION \_\_\_\_\_. EFFECTIVE DATE. (a) Except as provided by Subsections (b) and (c) of this section, the sections of this Act amending The Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes) take effect September 1, 1995, and apply only to an application for licensing as a professional counselor filed with the Texas State Board of Examiners of Professional Counselors on or after that date. An application filed before the effective date of this Act is governed by the law in effect at the time the application was made and the former law if continued in effect for that purpose.

(b) The change in law made by this Act to Section 15, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), takes effect September 1, 1996.

(c) The change in law made by this Act to Section 12(f) Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), applies only to a person who applies for licensing as a professional counselor on or after September 1, 1993.

(d) The Texas State Board of Examiners of Professional Counselors shall adopt rules under this Act not later than November 1, 1995.

### **Amendment No. 2**

Representative Rodriguez offered the following amendment to Amendment No. 1:

Amendment No. 2 to the Rodriguez Amendment to **SB 673**:

Amend Article 4512g, Section 3(a)(4) on page 4, at the beginning of the fifth line, by inserting "licensed occupational therapists," before "licensed optometrists".

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

**Amendment No. 3**

Representative Combs offered the following amendment to the bill:

Amend **SB 673** on Third Reading as follows:

(1) Add the following new appropriately numbered Sections to read as follows:

SECTION . Subsection (b), Article 4567, Revised Statutes, is amended by amending Subdivision (1) and adding Subdivisions (3) and (4) to read as follows:

(1) "Board" means the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners.

(3) "Podiatrist" means a person licensed under this chapter to practice podiatry as described by Subsection (a) of this article.

(4) "Podiatry" means the practice described by Subsection (a) of this article and Article 4567b, Revised Statutes, and includes podiatric medicine.

SECTION . Article 4567b, Revised Statutes, is amended to read as follows:

Art. 4567b. PRACTICE OF PODIATRY; PENALTY. Any person shall be regarded as practicing podiatry within the meaning of this law, and shall be deemed and construed to be a podiatrist, who shall treat or offer to treat any disease or disorder, physical injury or deformity, or ailment of the human foot by any system or method and charge therefore, directly or indirectly, money or other compensation, or who shall publicly profess or claim to be a chiropodist, podiatrist, podiatric physician, foot specialist, doctor or use any title, degree, letter, syllable, word or words that would tend to lead the public to believe such person was a practitioner authorized to practice or assume the duties incident to the practice of podiatry. Whoever professes to be a podiatrist, practices or assumes the duties incident to the practice of podiatry within the meaning of this law or Article, without first obtaining from the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners a license authorizing such person to practice podiatry, shall be punished by a fine of not less than Fifty Dollars (\$50), nor more than Five Hundred Dollars (\$500), or by imprisonment in the county jail of not less than thirty (30) days, nor more than six (6) months, or by both fine and imprisonment.

SECTION . Subsections (a), (g), (h), and (j), Article 4568, Revised Statutes, are amended to read as follows:

(a) The Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners shall consist of nine (9) members. Six (6) members must be reputable practicing podiatrists who have resided in this state and who have been actively engaged in the practice of podiatry for five (5) years immediately preceding their appointment. Three (3) members must be representatives of the general public. However, a public member may not participate in any part of the examination process for applicants for a license issued by the Board that requires knowledge of the practice of podiatry. Appointments to the Board shall be made by the Governor without regard to the race, color, disability, sex, religion, or national origin of the appointees.

(g) The term of office of each member of said Board shall be six (6) years. At the expiration of the term of each member, his successor shall be appointed

by the Governor of this State and he shall serve for a term of six (6) years, or until his successor shall be appointed and qualified. The members of the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners shall, before entering upon the duties of their offices, qualify, by subscribing to, before a notary public or other officer authorized by law to administer oaths, and filing with the Secretary of State, the constitutional oath of office. They shall, biennially thereafter at the first regular scheduled meeting [~~in the month of January~~], elect from their number a president, vice-president, and secretary [~~secretary-treasurer~~]. [~~The secretary-treasurer, before entering upon his duties, shall file a bond with the Secretary of State for such sum as will be twice the amount of cash on hand at the time the bond is filed; provided, however, that the amount of said bond shall, in no case, be less than Five Thousand Dollars (\$5,000). Said bond shall be payable to the Governor of this State, for the benefit of said Board; shall be conditioned upon the faithful performance of the duties of such officer; and shall be in such form as may be approved by the Attorney General of this State; and shall be executed by a surety company, as surety, and be approved by the Texas State Board of Podiatry Examiners.~~]

(h) Said Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners shall hold meetings at least twice a year and special meetings when necessary at such times and places as the Board deems most convenient for applicants for examinations for license. Special meetings shall be held upon request of a majority of the members of the Board, or upon the call of the president. Five (5) members of the Board shall constitute a quorum for the transaction of business and should a quorum not be present on the day appointed for any meeting, those present may adjourn from day to day until a quorum be present.

(j) The Board shall adopt all reasonable or necessary rules, regulations, and bylaws, not inconsistent with the law regulating the practice of podiatry, the laws of this State, or of the United States, to govern its proceedings and activities, the regulation of the practice of podiatry and the enforcement of the law regulating the practice of podiatry. If the appropriate standing committees of both houses of the legislature acting under Section 2001.032, Government Code [~~5(g), Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)~~], transmit to the Board statements opposing adoption of a rule under that subsection, the rule may not take effect or, if the rule has already taken effect, the rule is repealed effective on the date the Board receives the committees' statements. The Board shall have power to appoint committees from its own membership, the duties of which shall be to consider such matters pertaining to the enforcement of the law regulating the practice of podiatry and the regulations promulgated in accordance therewith as shall be referred to said committees, and to make recommendations to the Board with respect thereto. The Board may contract with the Texas State Board of Medical Examiners or any other appropriate state agency for the provision of some or all of the services necessary to carry out the activities of the Board. The Board may request and, if necessary, [any committee, or any members thereof shall have the power to issue subpoenas and to] compel by subpoena the attendance of witnesses for examination under oath and the production of books, accounts, records, papers, correspondence, [and] documents, and other evidence relevant to the investigation of an alleged

violation of this chapter. If a person fails to comply with a subpoena issued under this subsection, the Board, through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in a county in which a hearing conducted by the Board may be held. If the court determines that good cause existed for the issuance of the subpoena, the court shall order compliance with the subpoena. Failure to obey the order of the court is punishable by the court as contempt[, to administer oaths and to take testimony concerning all matters within its or his jurisdiction]. The Board shall not be bound by the strict rules of procedure or by the laws of evidence in the conduct of its proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it. The Board shall have the right to institute an action in its own name to enjoin the violation of any of the provisions of the law regulating the practice of podiatry or the regulations promulgated in accordance therewith, and in such connection a temporary injunction may be granted. Said action for an injunction shall be in addition to any other action, proceeding or remedy authorized by law. The Board shall keep a correct record of all the proceedings of the Board, and of all moneys received or expended by the Board, which record shall be open to public inspection at all reasonable times. The records shall include a record of proceedings relating to examination of applicants, and the issuance, renewal, or refusal of certificates of registration; and they shall also contain the name, age, known place of residence, the name and location of the college of podiatric medicine [school of podiatry] from which he holds credentials and the time devoted to the study and practice of the same, together with such other information as the Board may desire to record. Said record shall also show whether applicants were rejected or licensed and shall be prima facie evidence of all matters therein contained. A certified copy of said record, with the hand and seal of the custodian of records [secretary] of said Board, shall be admitted as evidence in all courts. Every license and annual renewal certificate issued shall be numbered and recorded in a book kept by the Board. The records shall be kept by the Board.

The Board shall cause the prosecution of all persons violating any of the provisions of the law regulating the practice of podiatry and may incur the expense reasonably necessary in that behalf.

SECTION . Article 4568b, Revised Statutes, is amended to read as follows:

Art. 4568b. SUNSET PROVISION. The Texas State Board of Podiatric Medical [Podiatry] Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2005.

SECTION . Subsections (a), (c), (d), (f), and (i), Article 4569, Revised Statutes, are amended to read as follows:

(a) Except as provided in Article 4569a, Revised Civil Statutes of Texas, 1925, all applicants for license to practice podiatry in this State must successfully pass an examination approved by the Texas State Board of Podiatric Medical [Podiatry] Examiners.

(c) The examinations shall be written and practical [~~and in the English language~~], and all applicants who [~~that~~] possess the qualifications required for an examination shall be issued a license by the Board to practice podiatry in

this state. The passing score for the examination shall be determined by the Board using accepted criterion-referenced methods ~~[and who shall pass the examinations prescribed with a general average of seventy-five per cent (75%) in all subjects and not less than sixty per cent (60%) in any one subject shall be issued a license by the Board to practice podiatry in this State]~~. The Board shall have the examination validated by an independent testing professional.

(d) The subjects the applicant must be examined in are anatomy, chemistry, dermatology, diagnosis, pharmacology ~~[materia-medica]~~, pathology, physiology, microbiology, orthopedics and podiatry, as related ~~[limited in their scope]~~ to ailments of the human foot.

(f) All applicants shall pay to the ~~[secretary-treasurer of the]~~ Board an examination fee at least fifteen (15) days before the dates of the regular examinations.

(i) Not later than the 30th day after the date on which a licensing examination is administered under this chapter, the ~~[secretary-treasurer of the]~~ Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the ~~[secretary-treasurer of the]~~ Board shall notify examinees of the results of the examination not later than the 14th day after the date on which the Board receives the results from the testing service. If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the ~~[secretary-treasurer of the]~~ Board shall notify the examinee of the reason for the delay before the 90th day.

SECTION . Subsection (b), Article 4569a, Revised Statutes, is amended to read as follows:

(b) In this article a course of study, training, or education is considered approved or accredited if it is approved or accredited by the Texas State Board of Podiatric Medical ~~[Podiatry]~~ Examiners as constituting a bona fide reputable course of training, study, or education. In making a decision relating to the approval or accreditation of a course of study, training, or education, the board shall consider whether the course is approved or accredited by the Council on Podiatric Medical Education of the American Podiatric Medical ~~[Podiatry]~~ Association or its successor organization.

SECTION . Subsections (a), (c), (d), and (e), Article 4570, Revised Statutes, are amended to read as follows:

(a) A person desiring to practice podiatry in this state shall make written application for a license therefor to the Texas State Board of Podiatric Medical ~~[Podiatry]~~ Examiners on a form prescribed by the Board. The information submitted shall be verified by affidavit of the applicant.

(c) A podiatry or chiropody school may be considered reputable, within the meaning of this Act, if the course of instruction embraces four (4) terms of approximately eight (8) months each, or the substantial equivalent thereof, and if the school meets the approval of the ~~[State]~~ Board ~~[of Podiatry Examiners]~~. All educational attainments or credits for evaluation within the meaning of this Act, or applicable under this law, shall have been completed within the geographical boundaries of the United States, and no educational credits attained in any foreign country that are not acceptable to The University of Texas toward a Bachelor's Degree, shall be acceptable to the ~~[State]~~ Board ~~[of Podiatry Examiners]~~.



(d) The [State] Board [~~of Podiatry Examiners~~] may refuse to admit persons to its examinations, and to issue a license to practice podiatry to any person, for any of the following reasons:

(1) The presentation to the Board of any license, certificate, or diploma, which was illegally or fraudulently obtained, or when fraud or deception has been practiced in passing the examination;[-]

(2) Conviction of a crime of the grade of a felony or any crime which involves moral turpitude, or conviction of a violation of Article 4567c, Revised Civil Statutes of Texas, 1925, as amended;[-]

(3) Habits of intemperance, or drug addiction, calculated, in the opinion of the Board, to endanger the health, well-being, or welfare of patients;[-]

(4) Grossly unprofessional or dishonorable conduct, of a character which in the opinion of the Board is likely to deceive or defraud the public;[-]

(5) The violation, or attempted violation, direct or indirect, of any of the provisions of this Act (Title 71, Chapter 11, Revised Civil Statutes of Texas, 1925, as amended), or any rule adopted under this Act, either as a principal, accessory, or accomplice;[-]

(6) The use of any advertising statement of a character tending to mislead or deceive the public;[-]

(7) Advertising professional superiority, or the performance of professional service in a superior manner;[-]

(8) The purchase, sale, barter, or use, or any offer to purchase, sell, barter, or use, any podiatry degree, license, certificate, diploma, or transcript of license, certificate, or diploma, in or incident to an application to the Board [~~of Podiatry Examiners~~] for a license to practice podiatry;[-]

(9) Altering, with fraudulent intent, any podiatry license, certificate, diploma, or transcript of a podiatry license, certificate, or diploma;[-]

(10) The use of any podiatry license, certificate, diploma, or transcript of any such podiatry license, certificate, or diploma, which has been fraudulently purchased, issued, counterfeited, or materially altered;[-]

(11) The impersonation of, or acting as proxy for, another in any examination required by this Act for a podiatry license;[-]

(12) The impersonation of a licensed practitioner, or permitting, or allowing, another to use his license, or certificate to practice podiatry in this State, for the purpose of treating, or offering to treat, conditions and ailments of the feet of human beings by any method;[-]

(13) Employing, directly or indirectly, any person whose license to practice podiatry has been suspended, or association in the practice of podiatry with any person or persons whose license to practice podiatry has been suspended, or any person who has been convicted of the unlawful practice of podiatry in Texas or elsewhere;[-]

(14) The wilful making of any material misrepresentation or material untrue statement in the application for a license to practice podiatry;[-]

(15) The inability to practice podiatry with reasonable skill and safety to patients by reason of age, illness, drunkenness, excessive use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this subsection the Board shall, upon

probable cause, request a podiatrist to submit to a mental or physical examination by medical doctors designated by it. If the podiatrist refuses to submit to the examination, the Board shall issue an order requiring the podiatrist to show cause why he will not submit to the examination and shall schedule a hearing on the order within 30 days after notice is served on the podiatrist. The podiatrist shall be notified by either personal service or by certified mail with return receipt requested. At the hearing, the podiatrist and his attorney are entitled to present any testimony and other evidence to show why the podiatrist should not be required to submit to the examination. After a complete hearing, the Board shall issue an order either requiring the podiatrist to submit to the examination or withdrawing the request for examination.[-]

(16) The failure to practice podiatry in an acceptable manner consistent with public health and welfare;[-]

(17) Being removed, suspended, or disciplined in another manner by the podiatrist's peers in any professional podiatry association or society, whether the association or society is local, regional, state, or national in scope or being disciplined by a licensed hospital or the medical staff of a hospital, including removal, suspension, limitation of hospital privileges, or other disciplinary action, if any of these actions in the opinion of the Board were based on unprofessional conduct or professional incompetence that was likely to harm the public, provided that the Board finds that the action taken was appropriate and reasonably supported by evidence submitted to the association, society, hospital, or medical staff; and[-]

(18) Repeated or recurring meritorious health care liability claims against the podiatrist that in the opinion of the Board are evidence of professional incompetence likely to injure the public.

(e) Any applicant who is refused admittance to examination has the right to try the issue in the District Court of Travis County [~~the county in which he resides or in which any Board member resides~~].

SECTION . Subsections (a) and (b), Section 1, Article 4571, Revised Statutes, are amended to read as follows:

(a) The Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners shall set and may from time to time change the amount of the annual license renewal fee as in the Board's judgment may be needed to provide for the reasonable costs and expenses of the Board in performing its duties and the administration of the law regulating the practice of podiatry. The annual license renewal fee shall be paid to the Board.

(b) The Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners on or before October [~~August~~] first of each year shall notify, by mail, all Texas licensed podiatrists at their last known address that the annual license renewal fee is due on the following November [~~September~~] first.

SECTION . Sections 4 and 5, Article 4571, Revised Statutes, are amended to read as follows:

Sec. 4. REISSUANCE OF LOST OR AMENDED LICENSE. If any license issued by the Board is lost, destroyed or stolen from the legally qualified and authorized person to whom it was issued, the owner of the license shall report the fact to [~~the Secretary-Treasurer of~~] the Board, in an affidavit form. The affidavit shall set forth detailed information as to the loss, destruction or



theft, giving dates, place and circumstances. If the owner of a license desires to have an amended license issued to him because of a lawful change in the name or degree designation of the licensee or for any other lawful and sufficient reason, the owner of the license shall make application for such amended license to ~~[the Secretary-Treasurer of]~~ the Board setting forth the reasons the issuance of an amended license is requested. A duplicate or amended license shall be issued upon regular application of the owner of the original license and payment of a fee set by the Board for the duplicate or amended license; however, the Board shall not issue a duplicate or amended license until sufficient evidence by the owner of the original license has been submitted to prove the license has been lost or to establish the lawful reason an amended license should be issued, and unless the records of the Board show a license had been issued and been in full force and effect at the time of such loss, destruction or theft, or such request for an amended license. If an amended license is issued, the original license shall be returned to the Board.

Sec. 5. DISPLAY OF LICENSE. Every person licensed by the [State] Board ~~[of Podiatry Examiners]~~ to practice in the state shall conspicuously display both his license and an annual renewal certificate for the current year of practice in the place or office wherein he practices and shall be required to exhibit such license and renewal certificate to a representative of the Board upon such representative's official request for its examination or inspection.

SECTION . Subsection (a), Section 6, Article 4571, Revised Statutes, is amended to read as follows:

(a) Any licensed podiatrist whose license has been suspended or revoked or whose annual renewal certificate has expired while he has been engaged in Federal service or on active duty with the Army of the United States, the United States Navy, the United States Marine Corps, the United States Coast Guard, or the United States Air Force, ~~[or the United States Maritime Service or the State Militia]~~, called into service or training of the United States of America or in training or education under the supervision of the United States preliminary to induction into the military service, may have his license renewed without paying any lapsed renewal fee or without passing any examination, if, within one (1) year after termination of said service, training or education, other than by dishonorable discharge, he furnishes the [State] Board ~~[of Podiatry Examiners]~~ an affidavit to the effect that he has been so engaged and that his service, training or education has been so terminated.

SECTION . Article 4573, Revised Statutes, as amended by Chapter 52, Acts of the 67th Legislature, Regular Session, 1981, and Chapter 14, Acts of the 72nd Legislature, Regular Session, 1991, is amended by amending Subsections (g) and (h) and by adding Subsections (j), (k), (l), (m), and (n) to read as follows:

(g) At any time while the probationer remains on probation, the Board may hold a hearing and, upon majority vote, rescind the probation if the terms of the probation have been violated, and enforce the Board's original action in revoking, cancelling, or suspending the practitioner's license. The hearing to rescind the probation shall be called by the President of the Texas State Board of Podiatric Medical [Podiatry] Examiners, who shall cause to be issued a notice setting a time and place for the hearing and containing the charges or

complaints against the probationer. The notice shall be served on the probationer or his counsel, and any person or persons complaining of the probationer or their counsel, at least ten (10) days prior to the time set for the hearing. When personal service is impossible, or cannot be effected, the same provisions for service in lieu of personal service set out in Subsection (d) of this Article shall apply. The respondent and any person or persons complaining of the respondent have the right to appear at the hearing either personally or by counsel, or both, to produce witnesses or evidence, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board may also issue subpoenas on its own motion. The subpoenas of the Board may be enforced through any district court having jurisdiction and venue in the county where the hearing is held. The Board shall determine the charges upon their merits. The order revoking or rescinding the probation is not subject to review or appeal.

(h) [~~(g)~~] This article does not apply to a person convicted of a felony under Chapter 481, Health and Safety Code, Section 485.033, Health and Safety Code, or Chapter 483, Health and Safety Code.

(i) [~~(h)~~] Upon application, the Board may reissue a license to practice podiatry to a person whose license has been cancelled or suspended, but the application, in the case of cancellation or revocation, may not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner and form as the Board may require.

(j) A complaint, report, investigation file, or other investigative information in the possession of or received or gathered by the Board or an employee or agent of the Board that relates to a license holder, a license application, or a criminal investigation or proceeding is privileged, confidential, and not subject to discovery, subpoena, or any other legal method of compelling release.

(k) Any other privilege or restriction established by law, not later than the 30th day after the date the Board receives a written request from a license holder, or the license holder's attorney, who is the subject of a formal complaint under this article, the Board shall provide the license holder with access to all information in the Board's possession that the Board intends to offer into evidence at the contested case hearing on the complaint. The Board may provide access to the information to the license holder after the 30th day after the date the Board receives a request only on a showing of good cause. The Board is not required under this subsection to provide access to the Board's investigative reports or memoranda, release the identity of a complainant who will not testify at the hearing, or release information that is an attorney's work product or protected by the attorney-client privilege or another privilege recognized by the Texas Rules of Civil Procedure or Texas Rules of Civil Evidence. The furnishing of information under this subsection does not constitute a waiver of any privilege or confidentiality provision under law.

(l) Investigative information in the possession of the Board that relates to a disciplinary action regarding a license holder may be disclosed to:

(1) a licensing agency regulating the practice of podiatric medicine in another state, the District of Columbia, or another country in which the license holder is also licensed or has applied for a license; or

(2) a peer review committee reviewing an application for privileges or

the qualifications of the license holder with regard to retaining the license holder's privileges.

(m) If information obtained by the Board in the course of an investigation indicates that a crime may have been committed, that information shall be reported to the appropriate law enforcement agency. The Board shall cooperate and assist a law enforcement agency conducting a criminal investigation of a license holder by providing relevant information to the agency. Information provided to a law enforcement agency by the Board is confidential and may not be disclosed except as necessary to conduct the investigation.

(n) The Board shall provide information to a health care entity on the written request of the entity concerning:

(1) a complaint filed against a license holder that was resolved after an investigation by the Board or resolved by an agreed settlement; and

(2) the basis for and status of an active investigation concerning a license holder.

SECTION . Subsections (a) and (c), Section 1, Article 4573b, Revised Statutes, are amended to read as follows:

(a) Each insurer that delivers or issues for delivery in this state professional liability insurance coverage to a podiatrist who practices in this state shall furnish to the Texas State Board of Podiatric Medical [Podiatry] Examiners the information specified in Subsection (b) of this section relating to:

(1) a notice of claim letter or a complaint filed against an insured in a court, if the notice of claim letter or the complaint seeks the recovery of damages based on the insured's conduct in providing or failing to provide medical or health-care services; or

(2) a settlement of a claim or other legal action made by the insurer on behalf of the insured.

(c) If a podiatrist who practices in this state is not covered by professional liability insurance or is insured by an insurer that is not authorized to write professional liability insurance for podiatrists in this state, the podiatrist shall submit information to the Texas State Board of Podiatric Medical [Podiatry] Examiners relating to any malpractice action brought against that podiatrist. The podiatrist shall submit the information as required by rules adopted by that board under Section 2 of this article.

SECTION . Sections 2, 3, 4, and 5, Article 4573b, Revised Statutes, are amended to read as follows:

Sec. 2. (a) In consultation with the State Board of Insurance, the Texas State Board of Podiatric Medical [Podiatry] Examiners shall adopt rules for reporting the information required under Section 1 of this article and any additional information required by the Texas State Board of Podiatric Medical [Podiatry] Examiners.

(b) The Texas State Board of Podiatric Medical [Podiatry] Examiners shall consider other claim reports required under state or federal law in determining:

(1) any additional information to be reported;

(2) the form of such a report; and

(3) reasonable reporting intervals.

(c) Additional information that may be required by the Texas State Board of Podiatric Medical [Podiatry] Examiners includes:

(1) the date of a judgment, dismissal, or settlement of a malpractice action;

(2) whether an appeal has been taken, and by which party; and

(3) the amount of any judgment or settlement.

Sec. 3. Neither liability nor a cause of action for an action taken as required under this article arises against:

(1) an insurer;

(2) an agent or employee of the insurer;

(3) a member of the Texas State Board of Podiatric Medical [Podiatry] Examiners; or

(4) an employee or representative of the board.

Sec. 4. In the trial of an action brought against a podiatrist based on the podiatrist's conduct in providing or failing to provide medical or health-care services, a report or information submitted to the Texas State Board of Podiatric Medical [Podiatry] Examiners under this article or the fact that such a report or information has been submitted may not be offered in evidence or in any manner used in the trial of the action.

Sec. 5. The Texas State Board of Podiatric Medical [Podiatry] Examiners shall review the information relating to a podiatrist against whom three or more malpractice claims have been reported during any five-year period as if a complaint against that podiatrist had been made to that board under Article 4573, Revised Statutes.

SECTION . Section 4, Article 4573f, Revised Statutes, is amended to read as follows:

Sec. 4. Written or oral communications made to a podiatric peer review committee and the records and proceedings of a peer review committee may be disclosed to:

(1) another podiatric peer review committee;

(2) an appropriate state or federal agency;

(3) a national accreditation body; or

(4) the Texas State Board of Podiatric Medical [Podiatry] Examiners or the state board of registration or licensure of podiatrists in another state.

SECTION . Subsection (b), Section 5, Article 4573f, Revised Statutes, is amended to read as follows:

(b) If a podiatric peer review committee takes action that could result in censure or suspension, restriction, limitation, or revocation of a license by the Texas State Board of Podiatric Medical [Podiatry] Examiners or a denial of membership or privileges in a health care entity, the affected podiatrist shall be provided a written copy of the recommendation of the podiatric peer review committee and a copy of the final decision, including a statement of the basis for the decision.

SECTION . Subsections (a) and (c), Section 7, Article 4573f, Revised Statutes, are amended to read as follows:

(a) All persons, including the governing body and medical staff of a health care entity, shall comply with a subpoena issued by the Texas State Board of Podiatric Medical [Podiatry] Examiners for documents or information.

(c) Failure to comply with a subpoena constitutes grounds for disciplinary action against the facility or individual by the Texas State Board of Podiatric Medical [Podiatry] Examiners.

SECTION . Section 8, Article 4573f, Revised Statutes, is amended to read as follows:

Sec. 8. A person, health care entity, or podiatric peer review committee that participates in podiatric peer review activity or furnishes records, information, or assistance to a podiatric peer review committee or to the Texas State Board of Podiatric Medical [Podiatry] Examiners is immune from any civil liability arising from those acts if the acts were made in good faith and without malice.

SECTION . Section 6, Chapter 96, Acts of the 60th Legislature, Regular Session, 1967 (Article 4575a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. The Texas State Board of Podiatric Medical [Podiatry] Examiners may institute actions in its own name to enjoin a violation of any of the provisions of Chapter 11, Title 71 of the Revised Civil Statutes of Texas, 1925, as amended, consisting of Article 4567 through Article 4575, inclusive, Revised Civil Statutes of Texas, 1925, as amended, and to enjoin any person from performing an act constituting the practice of podiatry unless authorized by law. The Attorney General or any district or county attorney shall represent the Texas State Board of Podiatric Medical [Podiatry] Examiners in such court action.

SECTION . Subsection (a), Article 60.061, Code of Criminal Procedure, as amended by Chapters 790 and 1025, Acts of the 73rd Legislature, 1993, is amended to read as follows:

(a) The Texas State Board of Medical Examiners, the Texas State Board of Podiatric Medical [Podiatry] Examiners, the State Board of Dental Examiners, the State Board of Pharmacy, and the State Board of Veterinary Medical Examiners shall provide to the Department of Public Safety through electronic means, magnetic tape, or disk, as specified by the department, a list including the name, date of birth, and any other personal descriptive information required by the department for each person licensed by the respective agency. Each agency shall update this information and submit to the Department of Public Safety the updated information monthly.

SECTION . Subdivision (10), Section 241.003, Health and Safety Code, is amended to read as follows:

(10) "Podiatrist" means a podiatrist licensed by the Texas State Board of Podiatric Medical [Podiatry] Examiners.

SECTION 21. Subsection (f), Section 401.064, Health and Safety Code, is amended to read as follows:

(f) In adopting rules under this section relating to the inspection of medical, podiatric medical, dental, veterinary, and chiropractic electronic products, the board shall solicit and follow the recommendations of the State Board of Dental Examiners for the inspections of dental electronic products, the Texas State Board of Podiatric Medical [Podiatry] Examiners for the inspection of podiatric medical electronic products, the Texas State Board of Medical Examiners for the inspection of medical electronic products, the Texas State Board of Veterinary Medical Examiners for the inspection of medical electronic products used in the practice of veterinary medicine, and the State Board of Chiropractic Examiners for the inspection of chiropractic electronic products, unless in conflict with federal statutes or federal rules.

SECTION . Subsection (a), Section 481.076, Health and Safety Code, is amended to read as follows:

(a) The director may not permit any person to have access to information submitted to the Department of Public Safety under Section 481.075 except:

(1) investigators for the Texas State Board of Medical Examiners, the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, or the Texas State Board of Pharmacy; or

(2) authorized officers of the Department of Public Safety engaged in investigation of suspected criminal violations of this chapter who obtain access with the approval of an investigator listed in Subdivision (1).

SECTION . Subdivision (12), Section 483.001, Health and Safety Code, is amended to read as follows:

(12) "Practitioner" means a person licensed:

(A) by the Texas State Board of Medical Examiners, State Board of Dental Examiners, Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners, Texas Optometry Board, or State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs;

(B) by another state in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs; or

(C) in Canada or Mexico in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs.

SECTION . Subsection (B), Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended to read as follows:

(B) No policy of accident and sickness insurance shall make benefits contingent upon treatment or examination by a particular practitioner or by particular practitioners of the healing arts hereinafter designated unless such policy contains a provision designating the practitioner or practitioners who will be recognized by the insurer and those who will not be recognized by the insurer. Such provision may be located in the "Exceptions" or "Exceptions and Reductions" provisions, or elsewhere in the policy, or by endorsement attached to the policy, at the insurer's option. In designating the practitioners who will and will not be recognized, such provision shall use the following terms: Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Chiropractic, Doctor of Optometry, Doctor of Podiatry, Licensed Audiologist, Licensed Speech-language Pathologist, Doctor in Psychology, Licensed Master Social Worker—Advanced Clinical Practitioner, Licensed Dietitian, Licensed Professional Counselor, Licensed Marriage and Family Therapist, and Licensed Hearing Aid Fitter and Dispenser.

For purposes of this Act, such designations shall have the following meanings:

Doctor of Medicine: One licensed by the Texas State Board of Medical Examiners on the basis of the degree "Doctor of Medicine";

Doctor of Osteopathy: One licensed by the Texas State Board of Medical Examiners on the basis of the degree of "Doctor of Osteopathy";

Doctor of Dentistry: One licensed by the State Board of Dental Examiners;

Doctor of Chiropractic: One licensed by the Texas Board of Chiropractic Examiners;



Doctor of Optometry: One licensed by the Texas Optometry Board;

Doctor of Podiatry: One licensed by the Texas State Board of Podiatric Medical [Podiatry] Examiners;

Licensed Audiologist: One with a master's or doctorate degree in audiology from an accredited college or university and who is licensed as an audiologist by the State Committee of Examiners for Speech-Language Pathology and Audiology;

Licensed Speech-language Pathologist: One with a master's or doctorate degree in speech pathology or speech-language pathology from an accredited college or university and who is licensed as a speech-language pathologist by the State Committee of Examiners for Speech-Language Pathology and Audiology;

Doctor in Psychology: One licensed by the Texas State Board of Examiners of Psychologists and certified as a Health Service Provider;

Licensed Master Social Worker—Advanced Clinical Practitioner: One licensed by the Texas State Board of Social Worker Examiners as a Licensed Master Social Worker with the order of recognition of Advanced Clinical Practitioner;

Licensed Dietitian: One licensed by the Texas State Board of Examiners of Dietitians;

Licensed Professional Counselor: One licensed by the Texas State Board of Examiners of Professional Counselors;

Licensed Marriage and Family Therapist: One licensed by the Texas State Board of Examiners of Marriage and Family Therapists; and

Licensed Hearing Aid Fitter and Dispenser: One licensed by the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids.

SECTION . Article 21.52A, Insurance Code, is amended to read as follows:

Art. 21.52A. CERTIFICATION BY PODIATRIST. An insurance policy that is delivered, issued for delivery, or renewed in this state and that provides benefits covering loss of income based on an acute and temporary disability caused by sickness or injury may not deny payment of those benefits on the ground that the acute and temporary disability is certified or attested to by a podiatrist licensed by the Texas State Board of Podiatric Medical [Podiatry] Examiners if the acute and temporary disability is caused by a sickness or injury that may be treated by acts performed by a licensed podiatrist under the scope of that license.

SECTION . Subdivision (1), Subsection (a), Section 19, Chapter 836, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512e, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) A license may be denied, or after hearing, suspended or revoked, or a licensee otherwise disciplined if the applicant or licensee has:

(A) provided physical therapy to a person, except as provided by Subdivision (2) of this subsection, without the referral from a physician licensed to practice medicine by a state Board of Medical Examiners, or by a dentist licensed by a state Board of Dental Examiners, or a doctor licensed to practice chiropractic by a state Board of Chiropractic Examiners or a podiatrist licensed by a state Board of Podiatric Medical [Podiatry] Examiners, or by any

other qualified, licensed health-care professional who within the scope of the professional licensure is authorized to refer for health care services. The professional taking an action under this subdivision is a referring practitioner;

(B) in the case of a physical therapist assistant, treated a person other than under the direction of a licensed physical therapist;

(C) used drugs or intoxicating liquors to an extent that affects the licensee's or applicant's professional competence;

(D) been convicted of a felony in this state or in any other state, territory, or nation; conviction as used in this subdivision includes a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere;

(E) obtained or attempted to obtain a license by fraud or deception;

(F) been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant;

(G) been adjudged mentally incompetent by a court of competent jurisdiction;

(H) practiced physical therapy in a manner detrimental to the public health and welfare; or

(I) had the licensee's or applicant's license to practice physical therapy revoked or suspended or had other disciplinary action taken against the licensee or applicant or had the licensee's or applicant's application for a license refused, revoked, or suspended by the proper licensing authority of another state, territory, or nation.

SECTION . Subsection (a), Section 2.08, Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) This section applies to the Texas State Board of Medical Examiners, the Texas Board of Chiropractic Examiners, the Texas State Board of Dental Examiners, the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners, and the Board of Nurse Examiners.

SECTION . Subsection (b), Section 1, Article 4512p, Revised Statutes, is amended to read as follows:

(b) The council consists of one representative appointed by each of the following:

- (1) the Texas Board of Chiropractic Examiners;
- (2) the State Board of Dental Examiners;
- (3) the Texas Optometry Board;
- (4) the State Board of Pharmacy;
- (5) the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners;
- (6) the State Board of Veterinary Medical Examiners;
- (7) the Texas State Board of Medical Examiners;
- (8) the Board of Nurse Examiners;
- (9) the Texas State Board of Examiners of Psychologists;
- (10) the Board of Vocational Nurse Examiners;
- (11) the entity that regulates the practice of physical therapy;
- (12) the entity that regulates the practice of occupational therapy;
- (13) the health licensing division of the Department of Public Health;

and

- (14) the governor's office.



SECTION . Section 5, Article 4518, Revised Statutes, is amended to read as follows:

Sec. 5. Insofar as any of the following acts require substantial specialized judgment and skill and insofar as the proper performance of any of the following acts is based upon knowledge and application of the principles of biological, physical, and social science as acquired by a completed course in an approved school of professional nursing, "Professional Nursing" shall be defined as the performance for compensation of any nursing act (a) in the observation, assessment, intervention, evaluation, rehabilitation, care and counsel and health teachings of persons who are ill, injured or infirm or experiencing changes in normal health processes; (b) in the maintenance of health or prevention of illness; (c) in the administration of medications or treatments as ordered by a licensed physician, including a podiatric physician licensed by the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners, or dentist; (d) in the supervision or teaching of nursing; (e) in the administration, supervision, and evaluation of nursing practices, policies, and procedures; or (f) in the requesting, receiving, and signing for professional samples and distributing the samples to patients at a site serving underserved populations, as provided by Section 3.06(d)(5), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and rules implementing that section. The foregoing shall not be deemed to include acts of medical diagnosis or prescription of therapeutic or corrective measures. Nothing in this section shall be construed as prohibiting a registered nurse recognized by the board as having the specialized education and training required under Section 7, Article 4514, Revised Statutes, and functioning under adequate physician supervision from carrying out prescription drug orders or treatments under physician's orders, standing medical orders, standing delegation orders, or other orders or protocols.

SECTION . Section 3, Healing Art Identification Act (Article 4590e, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. HEALING ART IDENTIFICATIONS. Every person licensed to practice the healing art heretofore or hereafter by either the Texas State Board of Medical Examiners, the State Board of Dental Examiners, the Texas Board of Chiropractic Examiners, the Texas State Board of Examiners in Optometry, the Texas State Board of Podiatric Medical [~~Chiropody~~] Examiners, and the State Board of Naturopathic Examiners shall in the professional use of his name on any sign, pamphlet, stationery, letterhead, signature, or on any other such means of professional identification, written or printed, designate in the manner set forth in this Act the system of the healing art which he is by his license permitted to practice. The following are the legally required identifications, one of which must be used by practitioners of the healing art:

(1) If licensed by the Texas State Board of Medical Examiners on the basis of the degree Doctor of Medicine: physician and/or surgeon, M.D.; doctor, M.D.; doctor of medicine, M.D.

(2) If licensed by the Texas State Board of Medical Examiners on the basis of the degree Doctor of Osteopathy: physician and/or surgeon, D.O.; Osteopathic physician and/or surgeon; doctor, D.O.; doctor of osteopathy; osteopath; D.O.

(3) If licensed by the State Board of Dental Examiners: dentist; doctor, D.D.S.; doctor of dental surgery; D.D.S.; doctor of dental medicine, D.M.D.

(4) If licensed by the Texas Board of Chiropractic Examiners: chiropractor; doctor, D.C.; doctor of Chiropractic; D.C.

(5) If licensed by the Texas State Board of Examiners in Optometry: optometrist; doctor, optometrist; doctor of optometry; O.D.

(6) If a practitioner of the healing art is licensed by the Texas State Board of Podiatric Medical [~~Podiatry~~] Examiners, he shall use one of the following identifications: chiropodist; doctor, D.S.C.; Doctor of Surgical Chiropody; D.S.C.; podiatrist; doctor, D.P.M.; Doctor of Podiatric Medicine; D.P.M., podiatric physician.

(7) If licensed by the State Board of Naturopathic Examiners: naturopathic physician; physician, N.D.; doctor of naturopathy; N.D.; doctor, N.D.

SECTION . Section 1, Chapter 96, Acts of the 60th Legislature, Regular Session, 1967 (Article 4567a, Vernon's Texas Civil Statutes), is repealed.

SECTION . (a) This Act takes effect September 1, 1995.

(b) The changes in law made by Subsection (j), Article 4568, Revised Statutes, as amended by this Act, and by Subsections (j), (k), (l), (m), and (n), Article 4573, Revised Statutes, as added by this Act, apply only to a proceeding commenced by the Texas State Board of Podiatric Medical Examiners on or after the effective date of this Act. A proceeding commenced before that date is governed by the law in effect at the time the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 33. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

(2) Renumber existing Sections appropriately.

Amendment No. 3 was adopted without objection. (Junell recorded voting no)

#### **Amendment No. 4**

Representative Romo offered the following amendment to the bill:

Amend **SB 673** on third reading by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION \_\_\_\_\_. Title 71, Revised Statutes, is amended by adding Article 4512r to read as follows:

##### Art. 4512r. NATUROPATHIC PHYSICIANS

Sec. 1. PURPOSE. The legislature finds that a significant number of the citizens of this state are turning to naturopathic medicine for their health care needs and declares that naturopathic medicine is a distinct health care profession that affects the public health, safety, and welfare and provides the public with freedom of choice in health care. The purpose of this article is to provide standards for the licensing and regulation of naturopathic physicians to protect the public health, safety, and welfare and to provide a means of identifying qualified naturopathic physicians.

Sec. 2. DEFINITIONS. In this article:

(1) "Approved naturopathic medical college" means a college or program granting the degree of doctor of naturopathic medicine or doctor of naturopathy that:

(A) is accredited by the Council on Naturopathic Medical Education or other accrediting agency if recognized by the federal government;

(B) has candidate for accreditation status with the accrediting agency; or

(C) has been approved by the board after the college or program was investigated and found to meet education standards equivalent to those established by the accrediting agency.

(2) "Board" means the Texas Board of Health.

(3) "Department" means the Texas Department of Health.

(4) "Homeopathic preparations" means medicines prepared according to the Homeopathic Pharmacopeia of the United States.

(5) "Minor surgery" means the use of operative, electrical, or other methods for the surgical repair and care incidental to superficial lacerations and abrasions, superficial lesions, and the removal of foreign bodies located in superficial tissues and the use of antiseptics and local anesthetics in connection with these methods. The term does not include general or spinal anesthesia, major surgery, surgery of the body cavities, or specialized surgeries, including plastic surgery or surgery involving the eyes, tendons, ligaments, or major blood vessels.

(6) "Natural antibiotics" means antimicrobial, antifungal, and antiprotozoal agents that are naturally occurring substances or manufactured substances that are substantially identical to the naturally occurring substances.

(7) "Naturopathic medicine" means a system of primary health care practiced by naturopathic physicians for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and therapies to support and stimulate the individual's intrinsic self-healing processes.

(8) "Naturopathic obstetrics" means obstetrics and natural childbirth. The term includes the use of natural obstetrical medicines, ophthalmic antibiotics, obstetrical emergency medicines, and minor surgery including episiotomies but does not include the use of forceps delivery, general or spinal anesthesia, cesarean section, or induced abortion.

(9) "Naturopathic physician" means a person authorized and licensed to practice naturopathic medicine under this article.

(10) "Naturopathic physical medicine" means the therapeutic use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation and the physical modalities of electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic manipulative therapy, and therapeutic exercise.

(11) "Topical medicines" means topical analgesics, anesthetics, antiseptics, scabicides, antifungals, and antibacterials.

Sec. 3. AUTHORIZED ACTIVITIES. (a) A person licensed as a naturopathic physician under this article may use for preventive and therapeutic purposes the following medicines and therapies:

(1) food;

(2) food extracts;

(3) nutritional medicines;

(4) enzymes;

- (5) digestive aids;
- (6) whole gland thyroid;
- (7) medicinal plant and animal substances;
- (8) homeopathic preparations;
- (9) natural antibiotics;
- (10) immunizations;
- (11) topical medicines;
- (12) nonprescription medications;
- (13) counseling and psychotherapy;
- (14) hypnotherapy;
- (15) biofeedback;
- (16) dietary therapy;
- (17) naturopathic physical medicine;
- (18) therapeutic devices;
- (19) barrier devices for contraception;
- (20) naturopathic obstetrics; and
- (21) minor surgery.

(b) A person licensed as a naturopathic physician under this article may use for diagnostic purposes:

- (1) physical and orificial examinations;
- (2) X rays;
- (3) electrocardiograms;
- (4) ultrasound;
- (5) phlebotomy;
- (6) clinical laboratory tests and examinations;
- (7) physiological function tests; and
- (8) the noninvasive diagnostic procedures commonly used by

physicians in general practice.

Sec. 4. BOARD POWERS AND DUTIES. The board may adopt rules authorizing the use by naturopathic physicians of other diagnostic procedures and other natural medicines and therapies if the procedures, medicines, and therapies are taught in approved naturopathic medical colleges and are consistent with this article.

Sec. 5. EXCEPTIONS. This article does not:

(1) prevent any other professional who is licensed, certified, or registered under the laws of this state from providing services consistent with the professional's scope of practice;

(2) apply to a student of naturopathic medicine who is currently enrolled in an approved naturopathic medical college and who gratuitously diagnoses and treats disease under the direct supervision of a naturopathic physician or other health care practitioner regulated under the laws of this state if the student's activities are within the scope of practice of the supervising practitioner and are limited to activity consistent with the scope of practice authorized by this article; or

(3) apply to any naturopathic physician licensed in another state, a territory of the United States, or the District of Columbia, if the state, territory, or the District of Columbia requires credentials equivalent to those of this article, when the physician is incidentally called into this state for consultation with a naturopathic physician.

Sec. 6. PROHIBITED ACTS. A naturopathic physician may not:

(1) prescribe, dispense, or administer any legend drugs or controlled substances except those medicines authorized by this article;

(2) perform surgical procedures or X-ray procedures except those procedures authorized by this article;

(3) practice emergency medicine except as a samaritan rendering gratuitous services in the case of emergency and except for the care of minor injuries; or

(4) claim to practice medicine and surgery, osteopathy, dentistry, podiatry, optometry, chiropractic, physical therapy, or any other system or method of treatment not authorized by this article.

Sec. 7. DUTIES AND RESPONSIBILITIES. A naturopathic physician has the same authority and responsibility as any other licensed physician regarding public health laws, reportable diseases and conditions, communicable disease control and prevention, the recording of vital statistics, health and physical examinations, competency examinations, and local boards of health, except that the authority under this section is limited to activity consistent with the scope of practice authorized by this article.

Sec. 8. LICENSE QUALIFICATIONS. (a) A person is qualified to be licensed as a naturopathic physician if the person:

(1) is a graduate of an approved naturopathic medical college;

(2) has passed an examination prescribed or endorsed by the board covering the appropriate naturopathic subjects; and

(3) is of good moral character.

(b) A person is qualified to be licensed as a naturopathic physician without examination if:

(1) the applicant is licensed to practice naturopathic medicine or naturopathy in another state, a territory of the United States, or the District of Columbia under conditions and circumstances that the board finds to be comparable to the requirements of this state for obtaining a license to practice naturopathic medicine and the state, the territory, or the District of Columbia requires the successful completion of a professional examination for the issuance of a license;

(2) the applicant has graduated from an approved naturopathic medical college or, if the applicant was licensed before a date designated by board rule, the applicant graduated from a college approved by the board after the college was investigated and found to meet the acceptable education standards in existence at the time of the applicant's graduation; and

(3) the applicant produces evidence satisfactory to the board that the applicant holds a valid, unsuspended, and unrevoked license, has been actively engaged in the practice of naturopathic medicine or naturopathy for not less than one year, and is of good moral character.

(c) A person is qualified to be licensed under this article without examination if the person:

(1) is a resident of the state;

(2) is 18 years of age or older;

(3) held the person out to the public as a naturopath or naturopathic physician before January 1, 1995;

(4) is not licensed as a health care provider under any other law in this state;

(5) derives the majority of the person's earned income from the practice of naturopathic medicine; and

(6) applies for a license under this subsection on or before January 1, 1996.

(d) A person licensed under Subsection (c) of this section may practice naturopathic medicine only within a scope of practice that reflects the limits of the person's training and experience. The board may adopt rules providing for limitations on the practice of a person under this subsection and prescribing methods by which a person licensed under Subsection (c) of this section is identified as a person whose practice is limited.

Sec. 9. EXAMINATION. (a) A person may sit for the examination prescribed or endorsed by the board under Section 8(a) of this article and be eligible for licensure on the passage of the examination if, before December 1, 1995, the person submits proof to the department that the person:

(1) attended a naturopathic college and received a doctorate degree in naturopathic medicine or naturopathy from the college before May 1, 1994, and the college is subsequently approved by the board;

(2) was in practice in this state before May 1, 1994, that included providing health care services using natural medicines or therapies to patients in this state on a regular and ongoing basis; and

(3) is of good moral character.

(b) The board may prescribe a nationally developed standard examination as part or all of the examination prescribed or endorsed under Section 8(a) of this article. The passing criteria for the examination shall be determined by board rule. The board may adopt other rules necessary to the administration of the examination.

(c) The board shall set the fees for the examination, reexamination of the entire examination, and reexamination of separate components of the examination in amounts necessary to cover the actual cost of the examination and the expenses of administration.

Sec. 10. LICENSE FEES. A license to practice naturopathic medicine issued on the basis of examination or issued without examination based on a license granted in another state, a territory of the United States, or the District of Columbia may be issued and renewed on payment of the initial licensing fee and biennial renewal fees as determined by the board. The amounts of the fees may not be less than \$100 or more than \$500.

Sec. 11. LICENSE RENEWAL. (a) A license to practice naturopathic medicine must be renewed biennially.

(b) To renew a license, each naturopathic physician must submit to the department evidence of successful completion of the required hours of continuing education from programs approved by the board.

(c) The board shall adopt rules as to what constitutes an approved program of continuing education and the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars is monitored, recorded, and submitted to the department.

(d) The board may adopt other rules necessary to the administration of license renewals.

Sec. 12. CONTINUING EDUCATION. (a) The total number of required continuing education hours for all naturopathic physicians is not less than 30 approved hours biennially. The number and type of required continuing education hours for a naturopathic physician certified in naturopathic obstetrics is not less than 15 approved specialty hours in obstetrics or natural childbirth and not less than 20 approved hours biennially for a total of not less than 35 approved hours biennially.

(b) A person who seeks to renew a license that expired within the preceding year must comply with the continuing education requirements for the regular renewal of the license. A person seeking to renew a license that has been expired for more than one year must present evidence of completion of not less than one-half of the required hours of approved continuing education requirements during the year preceding the date of the application for renewal.

Sec. 13. INACTIVE STATUS; RETIRED STATUS. (a) A license holder seeking to place the person's license on inactive status must notify the department at the time of renewal and pay a fee for inactive status.

(b) The amount of the fee shall be set by the board except the amount may not be less than \$30 or more than \$100.

(c) To activate a license on inactive status, the license holder must pay the regular renewal fee and present evidence of having completed not less than one-half of the required hours of approved continuing education requirements during the year preceding the date of the application for activation.

(d) A license holder seeking to place a license on retired status must notify the department at the time of renewal. A license on retired status may not be reactivated.

(e) A license holder who holds a license that is on inactive or retired status may not practice naturopathic medicine.

Sec. 14. SPECIALTY PRACTICE. (a) A naturopathic physician may not practice naturopathic obstetrics without first obtaining a certificate of specialty practice. The board shall adopt rules to certify naturopathic physicians for specialty practice.

(b) To be certified in naturopathic obstetrics, a naturopathic physician must:

(1) pass a specialty examination in obstetrics or natural childbirth approved by the board; and

(2) comply with the requirements adopted by the board for issuance of the specialty certification that are equivalent to the minimum requirements, including any examination requirements, to obtain a license to practice midwifery in this state.

(c) The board may prescribe a national standardized examination in obstetrics or natural childbirth as constituting the specialty examination.

Sec. 15. USE OF X RAY. A naturopathic physician licensed under this article may use an X ray in the course of the person's practice only if the person is certified by the board as qualified to perform X-ray procedures. The board shall adopt rules for the issuance of a certification under this section that are equivalent to the requirements for other health professionals to engage in the use of X rays.

Sec. 16. USE OF TITLES; PENALTY; INJUNCTION. (a) A naturopathic physician may use the title "naturopathic physician" and the recognized



abbreviation for the professional degree of "N.D." A naturopathic physician has the exclusive right to use the terms "naturopathic physician," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medicine," "naturopathic health care," "naturopathy," and "N.D."

(b) A person commits an offense if the person holds the person out as a naturopathic physician or naturopath, suggests that the person practices naturopathic medicine or naturopathy, or uses the terms and abbreviation described by Subsection (a) of this section without holding a license or while the person is on retired or inactive status under this article.

(c) An offense under Subsection (b) of this section is a Class B misdemeanor.

(d) A person who violates this section may be enjoined by the district court on petition by the board.

Sec. 17. DISCIPLINARY ACTIONS. A person licensed under this article who engages in the practice of naturopathic medicine in violation of this article or a rule adopted under this article is subject to disciplinary measures and may be subject to a refusal to renew the person's license, the imposition of a limitation on the person's license, or the revocation or suspension of the license.

SECTION \_\_\_\_\_. CONFORMING AMENDMENT. Section 3.06(b), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) This Act does not apply to:

(1) dentists, duly qualified and registered under the laws of this state who confine their practice strictly to dentistry;

(2) duly licensed optometrists who confine their practice strictly to optometry as defined by law;

(3) duly licensed chiropractors who confine their practice strictly to chiropractic as defined by law;

(4) registered or professional nurses and licensed vocational nurses registered or licensed under the laws of this state who confine their practice strictly within the provisions of such applicable licensing Acts and the laws of this state;

(5) duly licensed podiatrists who confine their practice strictly to podiatry as defined by law;

(6) duly licensed or certified psychologists who confine their activities or practice strictly to psychology as defined by law;

(7) duly licensed physical therapists who confine their activities or practice strictly to physical therapy and who are not in violation of any law relating to physical therapy practice;

(8) duly licensed athletic trainers who confine their activities to the functions of an athletic trainer;

(9) commissioned or contract surgeons of the uniformed services of the United States or in the Public Health Service in the performance of their duties and not engaged in private practice;

(10) ~~(9)~~ any person furnishing medical assistance in case of an emergency or disaster situation if no charge is made for the medical assistance;

(11) ~~(10)~~ a student in training in a medical school approved by the board while performing the duties assigned in the course of training, providing



the duties are performed under the supervision of a licensed practitioner, except that medical residents, interns, and fellows shall be required to register and be subject to the other applicable provisions of this Act;

(12) [(++)] legally qualified physicians of other states called in consultation but who have no office in Texas and who appoint no place in this state for seeing, examining, or treating patients; [or]

(13) licensed naturopathic physicians who confine their practice strictly to naturopathic medicine as defined by law; or

(14) [(+2)] any other activities that the board may designate as exempt from the application of this Act.

SECTION \_\_\_\_\_. CONFORMING AMENDMENT. Section 3(a), Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Except as provided by Subsection (b) of this section, this Act does not apply to:

(1) the activities and services of or use of an official title by a person employed as a counselor by a federal, state, county, or municipal agency or public or private educational institution, if the person is performing counseling or counseling-related activities within the scope of his employment;

(2) the activities and services of a student, intern, or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher education or training institution, if these activities and services constitute a part of the supervised course of study and the person is designated a "counselor intern";

(3) the activities and services of a nonresident rendered not more than 30 days during any year, if the person is authorized to perform the activities and services under the law of the state or country of his residence;

(4) the activities and services of members of other professions licensed or certified by the state, such as physicians, registered nurses, psychologists, certified social workers, licensed marriage and family therapists, licensed chemical dependency counselors, licensed naturopathic physicians, licensed optometrists in the evaluation and remediation of learning or behavioral disabilities associated with or caused by a defective or abnormal condition of vision, Christian Science practitioners who are recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, or other recognized religious practitioners performing counseling consistent with the law of the state, their training, and any code of ethics of their professions, if they do not represent themselves by any title or description in the manner prescribed by Section 2 of this Act;

(5) the activities, services, titles, and descriptions of persons licensed to practice law;

(6) the activities, services, titles, and descriptions of persons employed as professionals or who are volunteers in the practice of counseling for public and private nonprofit organizations or charities who are accountable to the persons' sponsoring organization and do not use the title or hold themselves out to be licensed counselors;

(7) persons supervised by a physician and recognized as physician assistants by the Texas State Board of Medical Examiners, if the persons act

strictly within their scope of practice and do not use the titles covered by Section 15(b)(3) of this Act; or

(8) persons owning, operating, or employed by a certified career counseling service regulated under Chapter 222, Acts of the 70th Legislature, Regular Session, 1987 (Article 5221a-8, Vernon's Texas Civil Statutes).

SECTION \_\_\_\_\_. CONFORMING AMENDMENT. Section 5(39), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(39) "Practitioner" means:

(A) a physician, dentist, podiatrist, or veterinarian, a naturopathic physician to the extent permitted by rules adopted by the Texas Board of Health, or another ~~other~~ person licensed or registered to prescribe, distribute, administer, or dispense a prescription drug or device in the course of professional practice in this state;

(B) a person licensed by another state in a health field in which, under Texas law, licensees in this state may legally prescribe dangerous drugs or a person practicing in another state and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, and who may legally prescribe Schedule II, III, IV, or V controlled substances in such other state; or

(C) a person licensed in the Dominion of Canada or the United Mexican States in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs. "Practitioner" does not include a person licensed under this Act.

SECTION \_\_\_\_\_. CONFORMING AMENDMENT. Section 481.002(39), Health and Safety Code, is amended to read as follows:

(39) "Practitioner" means:

(A) a physician, dentist, veterinarian, podiatrist, or scientific investigator, a naturopathic physician to the extent permitted by rules adopted by the Texas Board of Health, or another ~~other~~ person licensed, registered, or otherwise permitted to distribute, dispense, analyze, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

(B) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state; or

(C) a person practicing in and licensed by another state as a physician, dentist, veterinarian, or podiatrist, having a current Federal Drug Enforcement Administration registration number, who may legally prescribe Schedule II, III, IV, or V controlled substances in that state.

SECTION \_\_\_\_\_. CONFORMING AMENDMENT. Section 483.001(12), Health and Safety Code, is amended to read as follows:

(12) "Practitioner" means a person licensed:

(A) by the Texas State Board of Medical Examiners, State Board of Dental Examiners, Texas State Board of Podiatry Examiners, Texas Optometry Board, Texas Board of Health as a naturopathic physician to the extent permitted by rules adopted by the board, or State Board of Veterinary Medical Examiners to prescribe and administer dangerous drugs;

(B) by another state in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs; or

(C) in Canada or Mexico in a health field in which, under the laws of this state, a licensee may legally prescribe dangerous drugs.

#### **Amendment No. 5**

Representative Rusling offered the following amendment to Amendment No. 4:

Amend the Romo third reading Amendment No. 4 to **SB 673** as follows:

(1) On page 1, line 6, (in the heading to proposed Article 4512r, Revised Statutes), strike "NATUROPATHIC PHYSICIANS" and substitute "NATUROPATHIC PRACTITIONERS".

(2) Strike "physician" or "physicians" each time that word appears after the word "Naturopathic" or "naturopathic" in proposed Article 4512r, Revised Statutes, and substitute "practitioner" or "practitioners", as appropriate;

(3) On page 5, lines 22 and 23 (in proposed Subdivision (3) of Section 5, Article 4512r, 1 Revised Statutes), strike "when the physician" and substitute "when the naturopathic practitioner".

(4) On page 6, lines 12 and 13 (in proposed Section 7, Article 4512r, Revised Statutes), strike "other licensed physician" and substitute "licensed physician".

Amendment No. 5 was adopted without objection.

(Davila in the chair)

Representative Janek moved to table Amendment No. 4, as amended.

(Speaker in the chair)

A record vote was requested.

The motion to table prevailed by (Record 518): 116 Yeas, 23 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, R.; Culberson; Danburg; Davis; De La Garza; Dear; Delisi; Denny; Driver; Duncan; Ehrhardt; Eiland; Elkins; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzhauser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; McCall; McCoulskey; McDonald; Moffat; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Rabuck; Ramsay; Reyna; Rhodes; Saunders; Seidlits; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Turner, S.; Walker; West; Williamson; Willis; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost; Zbrank.

Nays — Alonzo; Alvarado; Coleman; Conley; Cuellar, H.; Dukes; Dutton; Farrar; Gallego; Hernandez; Hudson; Longoria; Maxey; Moreno; Puente; Rangel; Rodriguez; Rusling; Serna; Solis; Thompson; Uher; Van de Putte.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Wilson.

Absent — Davila; Edwards; Greenberg; Mowery; Price; Raymond; Romo; Sadler.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 518. I intended to vote yes.

Gallego

When Record No. 518 was taken, I was temporarily out of the house chamber. I would have voted yes.

Greenberg

#### Amendment No. 6

Representative Hilderbran offered the following amendment to the bill:

Amend **SB 673** on third reading, in proposed Subsection (f), Section 262.034, Health and Safety Code, as added by House Floor Amendment No. 8 (2nd Reading Amendment), immediately after "a facility or service listed in Subsection (a)" by inserting ", other than home health facilities or services,".

Amendment No. 6 was adopted without objection.

#### Amendment No. 7

Representative Hilderbran offered the following amendment to the bill:

Amend **SB 673** on third reading as follows:

(1) In SECTION 3 of the bill, in Section 262.034, Health and Safety Code, add a new sentence at the end of Subsection (f) to read as follows:

However, an authority that provided such a facility or service before June 1, 1995, may continue providing that facility or service.

(2) In SECTION 4 of the bill, in Section 285.101, Health and Safety Code, add a new sentence at the end of Subsection (d) to read as follows:

However, a hospital, hospital district, or authority that provided such a facility or service before June 1, 1995, may continue providing that facility or service.

Amendment No. 7 was adopted without objection.

#### Amendment No. 8

Representative Hilderbran offered the following amendment to the bill:

Amend **SB 673** on third reading by striking Section 5 of the bill, as added on second reading by Floor Amendment No. 13, and substituting the following:

SECTION 5. Subchapter B, Chapter 101, Human Resources Code, is amended by adding Section 101.032 to read as follows:

Sec. 101.032. ACCESS TO HEALTH CARE SERVICES FOR THE ELDERLY. (a) In this section, "area agency on aging" means an entity designated in the manner provided by 42 U.S.C. Section 3025.

(b) Area agencies on aging may provide information for persons seeking

health care and long-term care assistance for individuals 60 years of age and older. If an area agency on aging performs duties under this section, the agency shall:

(1) maintain a toll-free telephone number; and

(2) maintain current information on relevant long-term care local resources for long-term care services for the elderly.

(c) To enhance the operation of the toll-free number, the department and the Texas Department of Human Services shall assist the area agencies on aging, subject to the availability of funds.

(d) The Texas Department of Human Services may also provide training for workers using the approved, computerized eligibility pre-screening program.

(e) Subject to the availability of funds, the department, the Texas Department of Human Services, and the area agencies on aging shall disseminate information to the public about the services provided by the area agencies on aging under this section.

Amendment No. 8 was adopted without objection.

#### **Amendment No. 9**

Representative McDonald offered the following amendment to the bill:

Amend **SB 673** on third reading by striking Section 58.002(e), Education Code, as added by the McDonald amendment, and substituting the following:

(e) This [It is the intent of this] chapter applies to all [that eventually at least 50 percent of the first year] resident physicians [appointed by medical schools shall be] in the [primary care] areas of family medicine, general internal medicine, general pediatrics, geriatrics, obstetrics/gynecology, and emergency medicine[; with 25 percent of those residents in family practice].

Amendment No. 9 was adopted without objection.

#### **Amendment No. 10**

Representative Van de Putte offered the following amendment to the bill:

Amend **SB 673** on third reading in SECTION 88.004 by striking subsection (d)(7) and substituting the following language:

"(7) a parent, managing conservator, or guardian; and"

Amendment No. 10 was adopted without objection.

#### **Amendment No. 11**

Representative Uher offered the following amendment to the bill:

Amend **SB 673** as follows:

Amend **SB 673**, on third reading, by amending second reading Floor Amendment No. 9, SECTION 1. Subsection (3) by inserting "of the human body" between the term "chiropractor" and "or uses".

Amendment No. 11 was adopted without objection. (Howard recorded voting yes)

#### **Amendment No. 12**

Representatives Uher, Janek, and Glaze offered the following amendment to the bill:

Amend **SB 673** Section \_\_\_\_ by adding a new Section 14a(19), 4512b Revised Statutes and making appropriate grammatical changes to the preceeding portion of the section. The new Section reads as follows.

(19) The term "chiropractic physician" may be used for the express purpose of filing a claim for necessary services within the definition of chiropractic under this Act when the billing for such services has universally applied, predetermined coding or description requirements that are a prerequisite to appropriate reimbursement. A chiropractor may not advertise using the term "physician," "chiropractic physician," or any combination or derivation of the term "physician."

Amendment No. 12 was adopted without objection. (Howard recorded voting yes)

#### **Amendment No. 13**

Representatives Uher, Janek, and Glaze offered the following amendment to the bill:

Amend **SB 673**, Floor amendment no. 10(3), Subsection (b) Section 13a, Article 4512b, VTCS, after the words "incisive or surgical procedure" by striking the word "means" and inserting the words "includes but is not limited to".

Amendment No. 13 was adopted without objection. (Howard recorded voting yes)

#### **Amendment No. 14**

Representatives Uher, Janek, and Glaze offered the following amendment to the bill:

Amend **SB 673**, Floor amendment number 12 by striking in its entirety subsection no. (1) which reads as follows:

(1) Amend Floor Amendment #9, Section \_\_\_\_, Chapter 94, Sec. 1(a)(3) by striking the second and third sentence and substituting "A chiropractor may not use the term "physician" in any form."

Amendment No. 14 was adopted without objection. (Howard recorded voting yes)

#### **Amendment No. 15**

Representative Coleman offered the following amendment to the bill:

Amend **SB 673** on third reading by adding the following new sections, appropriately numbered:

SECTION \_\_\_\_ Subdivision (3), Subsection (e), Section 5, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(3) If the executive director has knowledge that a potential ground for removal may exist [~~exists~~], the executive director shall notify the Board [~~governor and the attorney general~~] that a potential ground for removal may exist [~~exists~~]. The Board shall notify the governor and attorney general if a potential ground for removal exists.

SECTION \_\_\_\_\_. Subsection (d), Section 11, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) In addition to the requirements of Subsection (b) or (c) of this section, the applicant must meet the following qualifications:

- (1) the applicant has attained the age of majority;
- (2) the applicant is of good moral character;
- (3) in the judgment of the Board, the applicant is physically and mentally competent to render psychological services with reasonable skill and safety and is afflicted with no disease or condition, either mental or physical, which would impair competency to render psychological services; and

(4) the applicant:

(A) has not been convicted of a felony or a crime involving moral turpitude;

(B) does not use drugs or intoxicating liquors to an extent that affects the applicant's professional competency;

(C) has not been guilty of fraud or deceit in making the application;

(D) except as provided by Section 15B of this Act, has not aided or abetted a person, not a licensed or certified psychologist, in representing that person as a psychologist in this state;

(E) except as provided by Section 15B of this Act, has not represented himself or herself to be a psychologist licensed in this state at a time he or she was not licensed to practice psychology in this state, or practiced psychology in this state without a license to practice psychology in this state.

SECTION \_\_\_\_\_. Subsections (a) and (b), Section 14, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The Board shall administer oral and written examinations to qualified applicants for certification and licensure at least once a year. The Board shall have the written portion of the examination, if any, validated by an independent testing professional. The Board shall determine the subject and scope of the examinations and establish appropriate fees for examinations administered. Part of the examinations shall test applicant knowledge of the discipline and profession of psychology and part shall test applicant knowledge of the laws and rules governing the profession of psychology in this state. This latter part of the examination is to be known as the Board's jurisprudence examination. An applicant who fails his examination may be reexamined at intervals specified by the Board upon payment of another examination fee corresponding to the examination failed.

(b) Within 30 days after the day on which an ~~[a certification]~~ examination is administered under Subsection (a) of this section ~~[Act]~~, the Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board shall notify examinees of the results of the examination within two weeks after the day that the Board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the Board shall notify the examinee of the reason for the delay before the 90th day.



SECTION \_\_\_\_\_. Section 15A, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15A. ENDORSEMENT. (a) The Board may grant a temporary [~~provisional~~] license or certificate to an applicant seeking permanent certification or licensure, including individuals seeking reciprocity under Section 15B, upon [~~on~~] submission to the Board of an application in the form prescribed by the Board and payment of the required application fees if:

(1) the individual is licensed, certified, or registered as a psychologist or psychological associate by another state, the District of Columbia, or a commonwealth or territory of the United States and is in good standing with the regulatory agency of that jurisdiction;

(2) the requirements for licensing, certification, or registration in the other jurisdiction are substantially equal to those prescribed by this Act; and

(3) the individual has passed a national or other examination recognized as equivalent by the Board to the examination process required by the Board for permanent licensure and certification under this Act [~~relating to psychology; and~~];

[~~(4) the individual is sponsored by a person licensed or certified by the Board under this Act with whom the provisional license or certificate holder may practice under this section~~].

[~~(b) An applicant for a provisional license or certificate may be excused from the requirement of Subsection (a)(4) of this section if the Board determines that compliance with that subsection constitutes a hardship to the applicant.~~]

[~~(c)~~] A temporary [~~provisional~~] license or certificate is valid until the date the Board approves or denies the temporary [~~provisional~~] license or certificate holder's application for a permanent license or certificate or for one year if no action is taken by the Board.

[~~(c) If the Board denies the temporary license or certificate holder's application for permanent licensure or certification, the temporary license or certificate shall automatically expire.~~]

[~~(d) All temporary licenses and certificates expire one year after their issuance. [The Board shall issue a license or certificate under this Act to the holder of a provisional license or certificate under this section if:~~]

[~~(1) the provisional license or certificate holder passes the examination required by Section 14 of this Act;~~]

[~~(2) the Board verifies that the provisional license or certificate holder has the academic and experience requirements for a license or certificate under this Act; and~~]

[~~(3) the provisional license or certificate holder satisfies any other license or certification requirements under this Act.~~]

[~~(d) The Board must complete the processing of a provisional license or certificate holder's application for a license or certificate not later than the 180th day after the date the provisional license or certificate is issued.~~]

(e) The Board may adopt rules for the temporary [~~provisional~~] certification or licensing of an individual who holds a valid license or the equivalent from another country.



(f) Any temporary license or certificate issued under this section does not constitute a vested property right.

(g) A holder of a temporary license or certificate issued under this Act must display a sign approved by the Board in every room where the holder renders psychological services indicating the temporary nature of the license or certificate.

SECTION \_\_\_\_\_. Section 18, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18. ROSTER OF CERTIFIED AND LICENSED PSYCHOLOGISTS. The [During the month of April of each year, the] Board shall, on an annual basis, publish a list of all psychologists certified or licensed under this Act. The list shall contain the name and address of the psychologist and such other information that the Board deems desirable. The list shall be arranged both alphabetically and geographically. The Board shall mail a copy of this list to each person licensed under this Act, shall place a copy on file with the Secretary of State and shall furnish copies to the public upon request.

SECTION \_\_\_\_\_. Subsection (d), Section 23A, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) An executive director who determines that a violation may have [has] occurred shall [may] issue to the Board a report that states the facts on which the determination is based. The Board shall determine whether a violation has occurred. If the Board determines that a violation has occurred, the Board shall make a recommendation on the imposition of a penalty, including a recommendation on the amount of the penalty.

SECTION \_\_\_\_\_. Section 25A, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended by adding Subsections (e), (f), (g), and (h) to read as follows:

(e) Except as specifically provided in Subsection (f) of this section, a complaint and investigation under Section 8 of this Act concerning an individual licensed or certified by the Board and all information and materials compiled by the Board in connection with a complaint and investigation are not subject to disclosure under the open records law, Chapter 552, Government Code, and are not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to any person or entity.

(f) A complaint or investigation covered by Subsection (e) of this section and all information and materials compiled by the Board in connection with such a complaint or investigation may be disclosed to:

(1) the Board and its employees or agents involved in licensee and/or certificant discipline;

(2) a party to a disciplinary action against the licensee and/or certificant or that party's designated representative;

(3) law enforcement agencies if otherwise required by law;

(4) governmental agencies, if the disclosure is required or permitted by law, provided that the agency obtaining disclosure shall protect the identity of any patient whose records are examined; or

(5) any legislative committee or its staff directed by either or both houses of the legislature, the presiding officers of either or both houses of the

legislature, or the chairman of the legislative committee to make an inquiry regarding state hospitals or schools, provided that no information or records that identify a patient or client shall be released for any purpose unless proper consent is given by the patient and provided that only records created by the state hospital or school or its employees shall be included under this subsection.

(g) Not later than 30 days after receiving a written request from a licensee or certificand who is entitled to a hearing under this Act or from the licensee's or certificand's attorney of record, the Board shall provide the licensee or certificand with access to all information that the Board intends to offer into evidence at the hearing, unless good cause for delay is shown to the person presiding as officer in the hearing.

(h) In any disciplinary investigation or proceeding against a licensee or certificand, the Board shall protect the identity of any patient whose records are examined, except:

- (1) any patient initiating the disciplinary action; or
- (2) those patients who have submitted a written consent to the release of their records.

Amendment No. 15 was adopted without objection.

#### **Amendment No. 16**

Representative McDonald offered the following amendment to the bill:

Amend **SB 673** on third reading by adding a new section appropriately numbered to read as follows:

SECTION \_\_\_\_\_. Subtitle A, Title 8, Health and Safety Code, is amended by adding Chapter 674 to read as follows:

#### CHAPTER 674. OUT-OF-HOSPITAL DO-NOT-RESUSCITATE

Sec. 674.001. DEFINITIONS. In this chapter:

(1) "Attending physician" means the physician who has primary responsibility for a person's treatment and care.

(2) "Board" means the Texas Board of Health.

(3) "Cardiopulmonary resuscitation" includes a component of cardiopulmonary resuscitation.

(4) "Competent" means possessing the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of, and reasonable alternatives to, a proposed treatment decision.

(5) "Declarant" means a person who has executed or issued an out-of-hospital do-not-resuscitate order under this chapter.

(6) "Department" means the Texas Department of Health.

(7) "DNR identification device" means an identification device specified by the board under Section 674.023 that is worn for the purpose of identifying a person who has executed or issued an out-of-hospital DNR order or on whose behalf an out-of-hospital DNR order has been executed or issued under this chapter.

(8) "Durable power of attorney for health care" means a document delegating to an agent the authority to make health care decisions for a person in accordance with Chapter 135, Civil Practice and Remedies Code.

(9) "Emergency medical services" has the meaning assigned by Section 773.003.

(10) "Emergency medical services personnel" has the meaning assigned by Section 773.003.

(11) "Health care professionals" means physicians, nurses, and emergency medical services personnel and, unless the context requires otherwise, includes hospital emergency personnel.

(12) "Incompetent" means lacking the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of, and reasonable alternatives to, a proposed treatment decision.

(13) "Life-sustaining procedure" means a medical procedure, treatment, or intervention that uses mechanical or other artificial means to sustain, restore, or supplant a spontaneous vital function and, when applied to a person in a terminal condition, serves only to prolong the process of dying. The term does not include the administration of medication or the performance of a medical procedure considered to be necessary to provide comfort or care or to alleviate pain or the provision of water or nutrition.

(14) "Out-of-hospital DNR order":

(A) means a legally binding out-of-hospital do-not-resuscitate order, in the form specified by the board under Section 674.003, prepared and signed by the attending physician of a person who has been diagnosed as having a terminal condition, that documents the instructions of a person or the person's legally authorized representative and directs health care professionals acting in an out-of-hospital setting not to initiate or continue the following life-sustaining procedures:

(i) cardiopulmonary resuscitation;

(ii) endotracheal intubation or other means of advanced airway management;

(iii) artificial ventilation;

(iv) defibrillation;

(v) transcutaneous cardiac pacing;

(vi) the administration of cardiac resuscitation medications; and

(vii) other life-sustaining procedures specified by the board under Section 674.023(a); and

(B) does not include authorization to withhold medical interventions or therapies considered necessary to provide comfort or care or to alleviate pain or to provide water or nutrition.

(15) "Out-of-hospital setting" means any setting outside of a licensed acute care hospital in which health care professionals are called for assistance, including long-term care facilities, in-patient hospice facilities, private homes, and vehicles during transport.

(16) "Physician" means a physician licensed by the Texas State Board of Medical Examiners or a properly credentialed physician who holds a commission in the uniformed services of the United States and who is serving on active duty in this state.

(17) "Proxy" means a person designated and authorized by a directive executed or issued in accordance with Chapter 672 to make a treatment decision

for another person in the event the other person becomes comatose, incompetent, or otherwise mentally or physically incapable of communication.

(18) "Qualified relatives" means those persons authorized to execute or issue an out-of-hospital DNR order on behalf of a person who is comatose, incompetent, or otherwise mentally or physically incapable of communication under Section 674.008.

(19) "Statewide out-of-hospital DNR protocol" means a set of statewide standardized procedures adopted by the board under Section 674.023 for withholding cardiopulmonary resuscitation and certain other life-sustaining procedures by health care professionals acting in out-of-hospital settings.

(20) "Terminal condition" means an incurable or irreversible condition caused by injury, disease, or illness that would produce death without the application of life-sustaining procedures, according to reasonable medical judgment, and in which the application of life-sustaining procedures serves only to postpone the moment of the person's death.

Sec. 674.002. OUT-OF-HOSPITAL DNR ORDER; DIRECTIVE TO PHYSICIANS. (a) A competent person who has been diagnosed by a physician as having a terminal condition may at any time execute a written out-of-hospital DNR order directing health care professionals acting in an out-of-hospital setting to withhold cardiopulmonary resuscitation and certain other life-sustaining procedures designated by the board.

(b) The declarant must sign the out-of-hospital DNR order in the presence of two witnesses, and those witnesses must sign the order. The attending physician of the declarant must sign the order and shall make the fact of the existence of the order and the reasons for execution of the order a part of the declarant's medical record.

(c) A witness must have the same qualifications as those provided by Section 672.003(c).

(d) If the person is incompetent but previously executed or issued a directive to physicians in accordance with Chapter 672, the physician may rely on the directive as the person's instructions to issue an out-of-hospital DNR order and shall place a copy of the directive in the person's medical record. The physician shall sign the order in lieu of the person signing under Subsection (b).

(e) If the person is incompetent but previously executed or issued a directive to physicians in accordance with Chapter 672 designating a proxy, the proxy may make any decisions required of the designating person as to an out-of-hospital DNR order and shall sign the order in lieu of the person signing under Subsection (b).

(f) If the person is now incompetent but previously executed or issued a durable power of attorney for health care in accordance with Chapter 135, Civil Practice and Remedies Code, designating an agent, the agent may make any decisions required of the designating person as to an out-of-hospital DNR order and shall sign the order in lieu of the person signing under Subsection (b).

(g) The board, on the recommendation of the department, shall by rule adopt procedures for the disposition and maintenance of records of an original out-of-hospital DNR order and any copies of the order.

(h) An out-of-hospital DNR order is effective on its execution.

Sec. 674.003. FORM OF OUT-OF-HOSPITAL DNR ORDER. (a) A written out-of-hospital DNR order shall be in the standard form specified by board rule as recommended by the department.

(b) The standard form of an out-of-hospital DNR order specified by the board must, at a minimum, contain the following:

(1) a distinctive single-page format that readily identifies the document as an out-of-hospital DNR order;

(2) a title that readily identifies the document as an out-of-hospital DNR order;

(3) the printed or typed name of the person;

(4) a statement that the physician signing the document is the attending physician of the person, that the physician has diagnosed the person as having a terminal condition, and that the physician is directing health care professionals acting in out-of-hospital settings not to initiate or continue certain life-sustaining procedures on behalf of the person, and a listing of those procedures not to be initiated or continued;

(5) a statement that the person understands that the person may revoke the out-of-hospital DNR order at any time by destroying the order and removing the DNR identification device, if any, or by communicating to health care professionals at the scene the person's desire to revoke the out-of-hospital DNR order;

(6) places for the printed names and signatures of the witnesses and attending physician of the person and the medical license number of the attending physician;

(7) a separate section for execution of the document by the legal guardian of the person, the person's proxy, an agent of the person having a durable power of attorney for health care, or the attending physician attesting to the issuance of an out-of-hospital DNR order by nonwritten means of communication or acting in accordance with a previously executed or previously issued directive to physicians under Section 674.002(d) that includes the following:

(A) a statement that the legal guardian, the proxy, the agent, the person by nonwritten means of communication, or the physician directs that the listed life-sustaining procedures should not be initiated or continued in behalf of the person; and

(B) places for the printed names and signatures of the witnesses and, as applicable, the legal guardian, proxy, agent, or physician;

(8) a separate section for execution of the document by at least two qualified relatives of the person when the person does not have a legal guardian, proxy, or agent having a durable power of attorney for health care and is comatose, incompetent, or otherwise mentally or physically incapable of communication, including:

(A) a statement that the relatives of the person are qualified to make a treatment decision to withhold cardiopulmonary resuscitation and certain other designated life-sustaining procedures under Section 674.008 and, based on the known desires of the person or a determination of the best interest of the person, direct that the listed life-sustaining procedures should not be initiated or continued in behalf of the person; and

(B) places for the printed names and signatures of the witnesses and qualified relatives of the person;

(9) a place for entry of the date of execution of the document;

(10) a statement that the document is in effect on the date of its execution and remains in effect until the death of the person or until the document is revoked;

(11) a statement that the document must accompany the person during transport;

(12) a statement regarding the proper disposition of the document or copies of the document, as the board determines appropriate; and

(13) a statement at the bottom of the document, with places for the signature of each person executing the document, that the document has been properly completed.

(c) The board may, by rule and as recommended by the department, modify the standard form of the out-of-hospital DNR order described by Subsection (b) in order to accomplish the purposes of this chapter.

Sec. 674.004. ISSUANCE OF OUT-OF-HOSPITAL DNR ORDER BY NONWRITTEN COMMUNICATION. (a) A competent person who is an adult may issue an out-of-hospital DNR order by nonwritten communication.

(b) A declarant must issue the nonwritten out-of-hospital DNR order in the presence of the attending physician and two witnesses. The witnesses must possess the same qualifications as those provided by Section 672.003(c).

(c) The attending physician and witnesses shall sign the out-of-hospital DNR order in that place of the document provided by Section 674.003(b)(7) and the attending physician shall sign the document in the place required by Section 674.003(b)(13). The physician shall make the fact of the existence of the out-of-hospital DNR order a part of the declarant's medical record and the witnesses shall sign that entry in the medical record.

(d) An out-of-hospital DNR order issued in the manner provided by this section is valid and shall be honored by responding health care professionals as if executed in the manner provided by Section 674.002.

Sec. 674.005. EXECUTION OF OUT-OF-HOSPITAL DNR ORDER ON BEHALF OF A MINOR. The following persons may execute an out-of-hospital DNR order on behalf of a minor:

(1) the minor's parents;

(2) the minor's legal guardian; or

(3) the minor's managing conservator.

Sec. 674.006. DESIRE OF PERSON SUPERSEDES OUT-OF-HOSPITAL DNR ORDER. The desire of a competent person, including a competent minor, supersedes the effect of an out-of-hospital DNR order executed or issued by or on behalf of the person when the desire is communicated to responding health care professionals as provided by this chapter.

Sec. 674.007. PROCEDURE WHEN DECLARANT IS INCOMPETENT OR INCAPABLE OF COMMUNICATION. (a) This section applies when a person 18 years of age or older has executed or issued an out-of-hospital DNR order and subsequently becomes comatose, incompetent, or otherwise mentally or physically incapable of communication.

(b) If the adult person has designated a person to make a treatment

decision as authorized by Section 672.003(d), the attending physician and the designated person shall comply with the out-of-hospital DNR order.

(c) If the adult person has not designated a person to make a treatment decision as authorized by Section 672.003(d), the attending physician shall comply with the out-of-hospital DNR order unless the physician believes that the order does not reflect the person's present desire.

Sec. 674.008. PROCEDURE WHEN PERSON HAS NOT EXECUTED OR ISSUED OUT-OF-HOSPITAL DNR ORDER AND IS INCOMPETENT OR INCAPABLE OF COMMUNICATION. (a) If an adult person has not executed or issued an out-of-hospital DNR order and is comatose, incompetent, or otherwise mentally or physically incapable of communication, the attending physician and the person's legal guardian, proxy, or agent having a durable power of attorney for health care may execute an out-of-hospital DNR order on behalf of the person.

(b) If the person does not have a legal guardian, proxy, or agent, the attending physician and at least two qualified relatives may execute an out-of-hospital DNR order in the same manner as a treatment decision made under Section 672.009(b).

(c) A decision to execute an out-of-hospital DNR order made under Subsection (a) or (b) must be based on knowledge of what the person would desire, if known.

(d) An out-of-hospital DNR order executed under Subsection (b) must be made in the presence of at least two witnesses who possess the same qualifications that are required by Section 672.003(c).

(e) The fact that an adult person has not executed or issued an out-of-hospital DNR order does not create a presumption that the person does not want a treatment decision made to withhold cardiopulmonary resuscitation and certain other designated life-sustaining procedures designated by the board.

Sec. 674.009. COMPLIANCE WITH OUT-OF-HOSPITAL DNR ORDER. (a) When responding to a call for assistance, health care professionals shall honor an out-of-hospital DNR order in accordance with the statewide out-of-hospital DNR protocol and, where applicable, locally adopted out-of-hospital DNR protocols not in conflict with the statewide protocol if:

(1) the responding health care professionals discover an executed or issued out-of-hospital DNR order form on their arrival at the scene; and

(2) the responding health care professionals comply with this section.

(b) If the person is wearing a DNR identification device, the responding health care professionals must comply with Section 674.010.

(c) The responding health care professionals must establish the identity of the person as the person who executed or issued the out-of-hospital DNR order or for whom the out-of-hospital DNR order was executed or issued.

(d) The responding health care professionals must determine that the out-of-hospital DNR order form appears to be valid in that it includes:

(1) written responses in the places designated on the form for the names, signatures, and other information required of persons executing or issuing, or witnessing the execution or issuance of, the order;

(2) a date in the place designated on the form for the date the order was executed or issued; and



(3) the signature of the declarant or persons executing or issuing the order and the attending physician in the appropriate places designated on the form for indicating that the order form has been properly completed.

(e) If the conditions prescribed by Subsections (a) through (d) are not determined to apply by the responding health care professionals at the scene, the out-of-hospital DNR order may not be honored and life-sustaining procedures otherwise required by law or local emergency medical services protocols shall be initiated or continued. Health care professionals acting in out-of-hospital settings are not required to accept or interpret an out-of-hospital DNR order that does not meet the requirements of this chapter.

(f) The out-of-hospital DNR order form, when available, must accompany the person during transport.

(g) A record shall be made and maintained of the circumstances of each emergency medical services response in which an out-of-hospital DNR order or DNR identification device is encountered, in accordance with the statewide out-of-hospital DNR protocol and any applicable local out-of-hospital DNR protocol not in conflict with the statewide protocol.

(h) An out-of-hospital DNR order executed or issued and documented or evidenced in the manner prescribed by this chapter is valid and shall be honored by responding health care professionals unless the person or persons found at the scene:

(1) identify themselves as the declarant or as the attending physician, legal guardian, qualified relative, or agent of the person having a durable power of attorney for health care who executed or issued the out-of-hospital DNR order on behalf of the person; and

(2) request that cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board be initiated or continued.

(i) If the policies of a health care facility preclude compliance with the out-of-hospital DNR order of a person or an out-of-hospital DNR order issued by an attending physician on behalf of a person who is admitted to or a resident of the facility, or if the facility is unwilling to accept DNR identification devices as evidence of the existence of an out-of-hospital DNR order, that facility shall take all reasonable steps to notify the person or, if the person is incompetent, the person's guardian or the person or persons having authority to make health care treatment decisions on behalf of the person, of the facility's policy and shall take all reasonable steps to effect the transfer of the person to the person's home or to a facility where the provisions of this chapter can be carried out.

Sec. 674.010. DNR IDENTIFICATION DEVICE. (a) A person who has a valid out-of-hospital DNR order under this chapter may wear a DNR identification device around the neck or on the wrist as prescribed by board rule adopted under Section 674.023.

(b) The presence of a DNR identification device on the body of a person is conclusive evidence that the person has executed or issued a valid out-of-hospital DNR order or has a valid out-of-hospital DNR order executed or issued on the person's behalf. Responding health care professionals shall honor the DNR identification device as if a valid out-of-hospital DNR order form executed or issued by the person were found in the possession of the person.

Sec. 674.011. Duration of Out-of-Hospital DNR Order. An out-of-hospital DNR order is effective until it is revoked as prescribed by Section 674.012.

Sec. 674.012. Revocation of Out-of-Hospital DNR Order. (a) A declarant may revoke an out-of-hospital DNR order at any time without regard to the declarant's mental state or competency. An order may be revoked by:

(1) the declarant or someone in the declarant's presence and at the declarant's direction destroying the order form and removing the DNR identification device, if any;

(2) a person who identifies himself or herself as the legal guardian, as a qualified relative, or as the agent of the declarant having a durable power of attorney for health care who executed the out-of-hospital DNR order or another person in the person's presence and at the person's direction destroying the order form and removing the DNR identification device, if any;

(3) the declarant communicating the declarant's intent to revoke the order; or

(4) a person who identifies himself or herself as the legal guardian, a qualified relative, or the agent of the declarant having a durable power of attorney for health care who executed the out-of-hospital DNR order orally stating the person's intent to revoke the order.

(b) An oral revocation under Subsection (a)(3) or (a)(4) takes effect only when the declarant or a person who identifies himself or herself as the legal guardian, a qualified relative, or the agent of the declarant having a durable power of attorney for health care who executed the out-of-hospital DNR order communicates the intent to revoke the order to the responding health care professionals or the attending physician at the scene. The responding health care professionals shall record the time, date, and place of the revocation in accordance with the statewide out-of-hospital DNR protocol and rules adopted by the board and any applicable local out-of-hospital DNR protocol. The attending physician or the physician's designee shall record in the person's medical record the time, date, and place of the revocation and, if different, the time, date, and place that the physician received notice of the revocation. The attending physician or the physician's designee shall also enter the word "VOID" on each page of the copy of the order in the person's medical record.

(c) Except as otherwise provided by this chapter, a person is not civilly or criminally liable for failure to act on a revocation made under this section unless the person has actual knowledge of the revocation.

Sec. 674.013. Reexecution of Out-of-Hospital DNR Order. A declarant may at any time reexecute or reissue an out-of-hospital DNR order in accordance with the procedures prescribed by Section 674.002, including reexecution or reissuance after the declarant is diagnosed as having a terminal condition.

Sec. 674.014. CONFLICT WITH NATURAL DEATH ACT OR DURABLE POWER OF ATTORNEY FOR HEALTH CARE. To the extent that an out-of-hospital DNR order conflicts with a directive or treatment decision executed or issued under Chapter 672 or a durable power of attorney for health care executed or issued in accordance with Chapter 135, Civil Practice and Remedies Code, the instrument executed later in time controls.

Sec. 674.015. Effect of Out-of-Hospital DNR Order on Insurance Policy

and Premiums. (a) The fact that a person has executed or issued an out-of-hospital DNR order under this chapter does not:

(1) restrict, inhibit, or impair in any manner the sale, procurement, or issuance of a life insurance policy to that person; or

(2) modify the terms of an existing life insurance policy.

(b) Notwithstanding the terms of any life insurance policy, the fact that cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board are withheld from an insured person under this chapter does not legally impair or invalidate that person's life insurance policy and may not be a factor for the purpose of determining the payability of benefits or the cause of death under the life insurance policy.

(c) A physician, health facility, health care provider, insurer, or health care service plan may not require a person to execute or issue an out-of-hospital DNR order as a condition for obtaining insurance for health care services or receiving health care services.

(d) The fact that a person has executed or issued or failed to execute or issue an out-of-hospital DNR order under this chapter may not be considered in any way in establishing insurance premiums.

Sec. 674.016. Limitation on Liability for Withholding Cardiopulmonary Resuscitation and Certain other Life-Sustaining Procedures. (a) A health care professional or health care facility or entity that in good faith causes cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board to be withheld from a person in accordance with this chapter is not civilly liable for that action.

(b) A health care professional or health care facility or entity that in good faith participates in withholding cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board from a person in accordance with this chapter is not civilly liable for that action.

(c) A health care professional or health care facility or entity that in good faith participates in withholding cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board from a person in accordance with this chapter is not criminally liable or guilty of unprofessional conduct as a result of that action.

(d) A health care professional or health care facility or entity that in good faith causes or participates in withholding cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board from a person in accordance with this chapter and rules adopted under this chapter is not in violation of any other licensing or regulatory laws or rules of this state and is not subject to any disciplinary action or sanction by any licensing or regulatory agency of this state as a result of that action.

Sec. 674.017. Limitation on Liability for Failure to Effectuate Out-of-hospital DNR order. (a) A health care professional or health care facility or entity that has no actual knowledge of an out-of-hospital DNR order is not civilly or criminally liable for failing to act in accordance with the order.

(b) A health care professional or health care facility or entity is not civilly or criminally liable for failing to effectuate an out-of-hospital DNR order.

(c) If an attending physician refuses to execute or comply with an out-of-hospital DNR order, the physician shall inform the person, the legal guardian

or qualified relatives of the person, or the agent of the person having a durable power of attorney for health care and, if the person or another authorized to act on behalf of the person so directs, shall make a reasonable effort to transfer the person to another physician who is willing to execute or comply with an out-of-hospital DNR order.

Sec. 674.018. Honoring Out-of-hospital DNR Order Does Not Constitute Offense of Aiding Suicide. A person does not commit an offense under Section 22.08, Penal Code, by withholding cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board from a person in accordance with this chapter.

Sec. 674.019. Criminal Penalty; Prosecution. (a) A person commits an offense if the person intentionally conceals, cancels, defaces, obliterates, or damages another person's out-of-hospital DNR order or DNR identification device without that person's consent or the consent of the person or persons authorized to execute or issue an out-of-hospital DNR order on behalf of the person under this chapter. An offense under this subsection is a Class A misdemeanor.

(b) A person is subject to prosecution for criminal homicide under Chapter 19, Penal Code, if the person, with the intent to cause cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board to be withheld from another person contrary to the other person's desires, falsifies or forges an out-of-hospital DNR order or intentionally conceals or withholds personal knowledge of a revocation and thereby directly causes cardiopulmonary resuscitation and certain other life-sustaining procedures designated by the board to be withheld from the other person with the result that the other person's death is hastened.

Sec. 674.020. PREGNANT PERSONS. A person may not withhold cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board under this chapter from a person known by the responding health care professionals to be pregnant.

Sec. 674.021. Mercy Killing Not Condoned. This chapter does not condone, authorize, or approve mercy killing or permit an affirmative or deliberate act or omission to end life except to permit the natural process of dying as provided by this chapter.

Sec. 674.022. LEGAL RIGHT OR RESPONSIBILITY NOT AFFECTED. This chapter does not impair or supersede any legal right or responsibility a person may have under a constitution, other statute, regulation, or court decision to effect the withholding of cardiopulmonary resuscitation or certain other life-sustaining procedures designated by the board.

Sec. 674.023. DUTIES OF DEPARTMENT AND BOARD. (a) The board shall, on the recommendation of the department, adopt all reasonable and necessary rules to carry out the purposes of this chapter, including rules:

(1) adopting a statewide out-of-hospital DNR order protocol that sets out standard procedures for the withholding of cardiopulmonary resuscitation and certain other life-sustaining procedures by health care professionals acting in out-of-hospital settings;

(2) designating life-sustaining procedures that may be included in an out-of-hospital DNR order, including all procedures listed in Section 674.001(14)(A)(i) through (vi); and

(3) governing recordkeeping in circumstances in which an out-of-hospital DNR order or DNR identification device is encountered by responding health care professionals.

(b) The rules adopted by the board under Subsection (a) are not effective until approved by the Texas State Board of Medical Examiners.

(c) Local emergency medical services authorities may adopt local out-of-hospital DNR order protocols if the local protocols do not conflict with the statewide out-of-hospital DNR order protocol adopted by the board.

(d) The board by rule shall specify a distinctive standard design for a necklace and a bracelet DNR identification device that signifies, when worn by a person, that the possessor has executed or issued a valid out-of-hospital DNR order under this chapter or is a person for whom a valid out-of-hospital DNR order has been executed or issued.

(e) The department shall report to the board from time to time regarding issues identified in emergency medical services responses in which an out-of-hospital DNR order or DNR identification device is encountered. The report may contain recommendations to the board for necessary modifications to the form of the standard out-of-hospital DNR order or the designated life-sustaining procedures listed in the standard out-of-hospital DNR order, the statewide out-of-hospital DNR order protocol, or the DNR identification devices.

Sec. 674.024. Recognition of Out-of-Hospital DNR Order Executed or Issued in Other State. An out-of-hospital DNR order executed, issued, or authorized in another state or a territory or possession of the United States in compliance with the law of that jurisdiction is effective for purposes of this chapter.

Amendment No. 16 was adopted. (Delisi, Heflin, and Wohlgemuth recorded voting no)

**SB 673**, as amended, was passed. (The vote was reconsidered later today and **SB 673**, as amended, was passed.)

**SB 44 ON THIRD READING**  
**(Combs, et al. - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 44**, A bill to be entitled An Act relating to the provision of good conduct time to inmates sentenced to the institutional division of the Department of Criminal Justice.

The bill was read third time and was passed.

**SB 111 ON THIRD READING**  
**(Combs and Kamel - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 111**, A bill to be entitled An Act relating to conditions of community supervision, parole, and release on mandatory supervision for defendants charged with or convicted of certain sexual offenses against or involving children.

The bill was read third time.

**Amendment No. 1**

Representative Combs offered the following amendment to the bill:

Amend **SB 111** on 3rd reading as follows:

1) In SECTION 3 of the bill, in the proposed Section 13B(a)(2), Article 42.12, Code of Criminal Procedure, strike "a sex offender treatment provider" and replace with "an individual or organization which provides sex offender treatment or counseling as".

2) In SECTION 4 of the bill, in the proposed Section 8(u)(1)(B), Article 42.18, Code of Criminal Procedure, strike "a sex offender treatment provider" and replace with "an individual or organization which provides sex offender treatment or counseling as".

Amendment No. 1 was adopted without objection.

**SB 111**, as amended, was passed.

**SB 46 ON THIRD READING**  
**(Allen - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 46**, A bill to be entitled An Act relating to requiring victim notification when an inmate escapes from a facility operated by the institutional division of the Texas Department of Criminal Justice.

A record vote was requested.

The bill was read third time and was passed by (Record 519): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Wilson.

Absent — Averitt; Clemons; Davila; Delisi; Hirschi; Jones, D.; Lewis, G.; Madden; Naishtat; Serna.

**STATEMENTS OF VOTE**

When Record No. 519 was taken, I was in the house but away from my desk. I would have voted yes.

Averitt

When Record No. 519 was taken, I was in the house but away from my desk. I would have voted yes.

Davila

When Record No. 519 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

**SB 47 ON THIRD READING**

**(Allen - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 47**, A bill to be entitled An Act relating to notification of certain persons about procedures in the community supervision process that apply to defendants who victimized those persons.

The bill was read third time and was passed.

**SB 1685 ON THIRD READING**

**(Stiles - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1685**, A bill to be entitled An Act relating to the detection and prevention of prostate cancer.

A record vote was requested.

The bill was read third time and was passed by (Record 520): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.



Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Wilson.

Absent — Davila; Lewis, G.; Moffat; Rusling; Willis.

### **STATEMENT OF VOTE**

When Record No. 520 was taken, I was in the house but away from my desk. I would have voted yes.

Davila

### **SB 1658 ON THIRD READING (Coleman - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1658**, A bill to be entitled An Act relating to tax credits for real property contributed to institutions of higher education.

The bill was read third time and was passed.

### **SB 1291 ON THIRD READING (Janek - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1291**, A bill to be entitled An Act relating to the practice of perfusion.

The bill was read third time and was passed.

### **SB 607 ON THIRD READING (McDonald - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 607**, A bill to be entitled An Act relating to benefits for the detection and prevention of osteoporosis under group health insurance policies.

The bill was read third time and was passed.

### **SB 726 ON THIRD READING (Hirschi - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 726**, A bill to be entitled An Act relating to energy conservation measures by institutions of higher education.

The bill was read third time and was passed.

(Speaker pro tempore in the chair)

### **SB 1360 ON THIRD READING (Alexander - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1360**, A bill to be entitled An Act relating to the operation and management of the Texas Turnpike Authority; providing penalties.

The bill was read third time.

**Amendment No. 1**

On behalf of Representative Davis, Representative Alexander offered the following amendment to the bill:

Amend **SB 1360** on third reading as follows:

(1) In SECTION 1.01 of the bill, proposed Section 1(q), Article 6674v, Vernon's Texas Civil Statutes (Committee printing, page 6, line 12), by striking "from any source".

(2) In SECTION 2.14 of the bill, proposed Section 361.191(a), Transportation Code (Committee printing, page 24, line 23), by striking "from any source".

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Eiland offered the following amendment to the bill:

Amend **SB 1360** on third reading as follows:

(1) In SECTION 1.10 of the bill (Committee Printing, page 13, line 19, through page 14, line 9), strike Section 21(f), Article 6674v, Vernon's Texas Civil Statutes, and substitute the following:

(f) Any motor vehicle which is not a police or emergency vehicle, driven or towed through a toll collection facility, shall pay the proper toll [person who uses any turnpike project and fails or refuses to pay the toll provided therefor, shall be punished by a fine of not more than One Hundred Dollars (\$100) and in addition thereto the Authority shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof, until the amount of such toll and all charges in connection therewith shall have been paid].

(2) In SECTION 1.10 of the bill, in proposed Section 21(g), Article 6674v, Vernon's Texas Civil Statutes (Committee Printing, page 14, lines 10-12), strike "as evidenced by video or other recording made pursuant to Subsection (f) of this section, and".

(3) In SECTION 2.15 of the bill (Committee Printing, page 25, lines 4-22), strike Section 361.252, Transportation Code, and substitute the following:

Sec. 361.252. FAILURE OR REFUSAL TO PAY TOLL. Any motor vehicle that is not a police or emergency vehicle, driven or towed through a toll collection facility, shall pay the proper toll. [(a) A person who uses a turnpike project and fails or refuses to pay a toll provided for using the project is liable for a fine not to exceed \$100.

[(b) The authority has a lien on the vehicle driven by the person for the amount of the toll and may take and retain the vehicle until the toll and related charges have been paid:]

(4) In SECTION 2.15 of the bill, in proposed Section 361.253(a), Transportation Code (Committee Printing, page 25, lines 24 and 25), strike "as evidenced by video or other recording made under Section 361.252, and".

(5) In SECTION 2.15 of the bill, in proposed Section 361.254(a), Transportation Code (Committee Printing, page 26, lines 20 and 21), strike "as evidenced by video or other recording,".

Amendment No. 2 was adopted without objection.

**SB 1360**, as amended, was passed.

**SB 1704 ON THIRD READING**  
**(Kuempel - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1704**, A bill to be entitled An Act relating to the review and approval of certain permits by the state, a municipality, or other local governmental agencies.

The bill was read third time and was passed.

**SB 480 ON THIRD READING**  
**(Saunders - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 480**, A bill to be entitled An Act relating to the jurisdiction of the Railroad Commission of Texas over pipeline safety.

A record vote was requested.

The bill was read third time and was passed by (Record 521): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Carona; Wilson.

Absent — Clemons; Edwards; Horn; Mowery; Reyna; Romo.

**SB 400 ON THIRD READING**  
**(Shields - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 400**, A bill to be entitled An Act relating to the application of the doctrine of forum non conveniens to certain actions.

A record vote was requested.

The bill was read third time and was passed by (Record 522): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smith; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker; Uher(C).

Absent, Excused — Carona; Wilson.

Absent — Edwards; Hirschi; Howard; Luna; Moffat.

### **SB 673 - VOTE RECONSIDERED**

Representative Berlanga moved to reconsider the vote by which **SB 673** was passed.

The motion to reconsider prevailed.

### **SB 673 ON THIRD READING (Berlanga - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 673**, A bill to be entitled An Act relating to health care, including powers and duties of the center for rural health initiatives, powers and duties of registered nurses and physician assistants, managed health care plans for certain inmates, and health facilities and services for the elderly or disabled.

### **Amendment No. 17**

Representative Berlanga offered the following amendment to the bill:

Amend **SB 673** by inserting new SECTION 3 as follows, by renumbering existing SECTION 3 of the bill as SECTION 4, and by renumbering subsequent sections accordingly:

SECTION 3. Chapter 241, Health and Safety Code, is amended by adding Section 241.006 to read as follows:

Sec. 241.006. COORDINATION OF SIGNAGE REQUIREMENTS  
IMPOSED BY STATE AGENCIES.

(a) DEPARTMENTAL REVIEW AND COORDINATION. The department is authorized to review current and proposed state rules issued by the department or by other state agencies that mandate that a hospital place or post a notice, poster, or sign in a conspicuous place or in an area of high public traffic, concerning the rights of patients or others or the responsibilities of the hospital, which is directed at patients, their families or others. The purpose of this review shall be to coordinate the placement, format and language contained in the required notices in order to:

- (1) eliminate the duplication of information;
- (2) reduce the potential for confusion to patients, their families and others; and
- (3) reduce the administrative burden of compliance upon hospitals.

(b) APPLICABILITY. Notwithstanding any other law, this section applies to all notices, posters or signs described in subsection (a).

Amendment No. 17 was adopted without objection.

**SB 673**, as amended, was passed. (Junell recorded voting no; Howard, yes)

**SB 15 ON THIRD READING**  
**(Place - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 15**, A bill to be entitled An Act relating to the prosecution, punishment, and creation of certain criminal offenses and to the sentencing of and facilities for housing certain defendants convicted of criminal offenses.

The bill was read third time.

**Amendment No. 1**

Representative Counts offered the following amendment to the bill:

Amend **SB 15** on third reading by adding the following sections, appropriately numbered, and renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. Article V, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended by adding Section 32A to read as follows:

Sec. 32A. FALSE EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) A person commits an offense if the person:

- (1) presents or uses a false evidence of financial responsibility with knowledge of its falsity and with intent that it be taken as a genuine evidence of financial responsibility;
- (2) makes, possesses, sells, or offers to sell a false evidence of financial responsibility with knowledge of its falsity;
- (3) possesses a blank evidence of financial responsibility and is not authorized to issue that evidence of financial responsibility; or
- (4) sells or offers to sell a blank evidence of financial responsibility.

(b) For purposes of this section, false evidence of financial responsibility is a document that, except as provided for non-resident drivers under Section 20, is not validly issued to the actor by an insurance carrier authorized to write

motor vehicle liability insurance in this state, issued under Section 19 or 20 of this Act, or issued by the Department, the State Treasurer, or a county court under Section 1A(b)(6), 24, 25, or 34 of this Act.

(c) Presentation or use of evidence of financial responsibility validly issued to the actor by an insurance carrier duly authorized to write motor vehicle liability insurance in this state, issued under Section 19 or 20 of this Act, or issued by the Department, the State Treasurer, or a county court under Section 1A(b)(6), 24, 25, or 34 of this Act is not subject to Subsection (a)(1), notwithstanding a subsequent lapse in coverage, unless the actor's intent is to defraud or harm another. This subsection does not bar any other penalty or prosecution for a violation of another offense under this Act or any other law or regulation.

(d) It is a defense to prosecution under Subsection (a)(3) or (a)(4) that the person is acting in the ordinary course of business of supplying blank forms of evidence of responsibility to a person who is authorized to issue the evidence of financial responsibility.

(e) An offense under Subsection (a)(1) is a Class A misdemeanor, unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.

(f) An offense under Subsection (a)(2), (a)(3), or (a)(4) is a felony of the third degree, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree.

(g) A person is presumed to intend to defraud or harm another if the person makes, presents, uses, possesses, sells, or offers to sell two or more of the same type of false evidences of financial responsibility or blank evidences of responsibility, or if the false evidence of financial responsibility is presented or used to acquire or renew, or attempt to acquire or renew, a motor vehicle registration, state inspection sticker, state driver's license, or any other permit or license issued by this State.

(h) In this section, "evidence of financial responsibility" means:

(1) a motor vehicle liability insurance policy or a copy of a motor vehicle liability insurance policy;

(2) a standard proof of motor vehicle liability insurance form promulgated by the Texas Department of Insurance;

(3) a motor vehicle liability insurance binder; or

(4) a certificate or copy of a certificate issued under Section 19 or 20 of this Act or issued by an insurer, the Department, the State Treasurer, or a county court under Section 1A(b)(6), 24, 25, or 34 of this Act.

SECTION \_\_\_\_\_. Section 32(b), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Any person who gives information required in a report or otherwise as provided for in Section 4, knowing or having reason to believe that such information is false, ~~[or who shall forge or, without authority, sign any evidence of proof of financial responsibility, or who files or offers for filing any such evidence of proof knowing or having reason to believe that it is forged or signed without authority,]~~ shall be fined not more than One Thousand Dollars (\$1,000) or imprisoned for not more than one year, or both.

SECTION \_\_\_\_\_. The following are repealed:

(1) Section 1B(d), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes); and

(2) Section 19(c), Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

Amendment No. 1 was adopted without objection.

### Amendment No. 2

Representative Place offered the following amendment to the bill:

Amend **SB 15** as follows:

Add the following SECTIONS \_\_\_\_, \_\_\_\_, and on page \_\_\_\_, line \_\_\_\_ and renumber subsequent sections appropriately

"SECTION \_\_\_\_, Section 38.05, Penal Code, is amended to read as follows:

Sec. 38.05. **OBSTRUCTION OF JUSTICE.** ~~[hindering apprehension or prosecution;]~~ (a) A person commits an offense if, with intent to hinder, delay, or prevent the discovery, detection, arrest, apprehension, detention, adjudication, prosecution, conviction, or punishment of another person, including a juvenile, for the commission of an offense other than an offense punishable by a fine only, he commits any of the following acts:

(1) harbors or conceals the other;

(2) provides or aids in providing the other with money, transportation, a weapon, a disguise, or any other thing to be used in ~~[any means of]~~ avoiding discovery, arrest, or effecting escape; or

(3) warns the other of impending discovery or apprehension.

(b) (1) A person commits an offense if, with intent to hinder, delay, or prevent the discovery, detection, apprehension, detention, adjudication, prosecution, or conviction of any person, including a juvenile, for the commission of an offense other than an offense punishable by fine only, he:

(A) by force, intimidation, or deception, obstructs, hinders, or impairs anyone in the performance of any act which might aid in the discovery, detection, apprehension, detention, adjudication, prosecution, or conviction of another; or

(B) conceals, takes, destroys, or alters any physical evidence, record, document, or other thing; or

(C) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent to effect the course or outcome of an investigation or official proceeding.

(2) This subsection shall not apply if the record, document, or thing concealed is privileged or is the work product of the parties to the investigation or official proceeding.

(c) It is a defense to prosecution under Subsection (a)(3) that the warning was given in connection with an effort to bring another into compliance with the law.

(d) [(c)] An offense under this section is one category lower than the offense committed by the person for whom the actor acted or attempted to act to hinder, delay, or prevent the person's discovery, detection, arrest, apprehension, detention, adjudication, prosecution, conviction, or punishment, unless the offense committed by the person was a state jail felony, in which event the offense under this section is a Class A misdemeanor~~[-except that the~~



~~offense is a felony of the third degree if the person who is harbored, concealed, provided with means of avoiding arrest or effecting escape, or warned or discovery or apprehension is under arrest for, charged with, or convicted of a felony and the person charged under this section knew that the person they harbored, concealed, provided with a means of avoiding arrest or effecting escape, or warned of discovery or apprehension is under arrest for, charged with, or convicted of a felony].~~

(e) If conduct constitutes an offense under this section as well as an offense under another section, prosecution may be brought under either section."

"SECTION \_\_\_\_\_. REPEALER. Section 37.09, Penal Code, is repealed."

"SECTION \_\_\_\_\_. (a) The change in law made to Section 38.05, Penal Code, by this Act applies only to a criminal offense committed on or after the effective date of this Act.

(b) The repeal by this Act of Section 37.09, Penal Code, does not apply to an offense committed under that section before the effective date of this Act. An offense committed under Section 37.09, Penal Code, before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(c) For purposes of this section, an offense is combined before the effective date of this Act if any element of the offense occurs before that date."

Amendment No. 2 was adopted without objection.

### **Amendment No. 3**

Representative Kuempel offered the following amendment to the bill:

Amend **SB 15** as follows:

(1) Insert the appropriately numbered section to the bill to read as follows:

SECTION \_\_\_\_\_. Subsection (d), Article 18.19, Code of Criminal Procedure, is amended to read as follows:

(d) A person either convicted or receiving deferred adjudication under Penal Code Chapter 46 is entitled to the weapon seized upon request to the law enforcement agency holding the weapon. However, the court entering the judgment ~~[of conviction]~~ shall order the weapon destroyed or forfeited to the state for use by the law enforcement agency holding the weapon if:

(1) the person does not request the weapon within 60 days after the date of the judgment of conviction;

(2) the person has been previously convicted under Penal Code Chapter 46;

(3) the weapon is one defined as a prohibited weapon under Penal Code Chapter 46; ~~[or]~~

(4) the offense for which the person is convicted or receives deferred adjudication was committed in or on the premises of a playground, school, video arcade facility, or youth center, as those terms are defined by Section 481.134, Health and Safety Code; or

(5) the court determines based on the prior criminal history of the defendant or based on the circumstances surrounding the commission of the offense that possession of the seized weapon would pose a threat to the community or one or more individuals.

Amendment No. 3 was adopted without objection.

**Amendment No. 4**

Representative Staples offered the following amendment to the bill:

Amend **SB 15** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Subsection (f), Section 2, Article 18.21, Code of Criminal Procedure, is amended to read as follows:

(f) An order for the installation and utilization of a pen register or trap and trace device is valid for not more than 30 days after the date the device is installed or after 10 days after the date the order is entered, whichever occurs first, unless prior to the expiration of the order the attorney for the state applies for and obtains from the court an extension of the order. The period of extension may not exceed 30 days for each extension granted, except that, with the consent of the subscriber or customer of the service on which the pen register or trap and trace device is utilized, the court may extend an order for a period not to exceed one year.

Amendment No. 4 was adopted without objection.

**Amendment No. 5**

Representative De La Garza offered the following amendment to the bill:

Amend **SB 15** on third reading by adding a new section appropriately numbered to read as follows:

SECTION \_\_\_\_\_. Article 18.06, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) Absent exigent circumstances, a peace officer may not enter private premises to execute a search warrant without making a reasonable attempt to announce the peace officer's presence and purpose to persons located on the premises.

Amendment No. 5 was adopted without objection.

**Amendment No. 6**

Representative Gallego offered the following amendment to the bill:

Amend **SB 15** by adding appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 501, Government Code, is amended by adding Sections 501.061 and 501.062 to read as follows:

Sec. 501.061. ORCHIECTOMY FOR CERTAIN SEX OFFENDERS.  
(a) A physician employed or retained by the department may perform an orchietomy on an inmate only if:

(1) the inmate has been convicted of an offense under Section 21.11, 22.011(a)(2), or 22.021(a)(2)(B), Penal Code, and has previously been convicted under one or more of those sections;

(2) the inmate is 21 years of age or older;

(3) the inmate requests the procedure in writing;

(4) the inmate signs a statement admitting the inmate committed the offense described by Subsection (a)(1) for which the inmate has been convicted;

(5) a psychiatrist and a psychologist who are appointed by the

department and have experience in the treatment of sex offenders evaluate and counsel the inmate before the inmate undergoes the procedure;

(6) the physician obtains the inmate's informed, written consent to undergo the procedure; and

(7) the inmate consults with a monitor as provided by Subsection (f).

(b) The inmate may change his decision to undergo an orchiectomy at any time before the physician performs the procedure.

(c) Either the psychiatrist or psychologist appointed by the department under this section must be a member of the staff of a medical facility under contract with the department or the institutional division to treat inmates in the division.

(d) A physician who performs an orchiectomy on an inmate under this section is not liable for an act or omission relating to the procedure unless the act or omission constitutes negligence.

(e) The name of an inmate who requests an orchiectomy under this section is confidential, and the department may use the inmate's name only for purposes of notifying and providing information to the inmate's spouse if the inmate is married.

(f) The executive director of the Texas State Board of Medical Examiners shall appoint, in consultation with two or more executive directors of college or university institutes or centers for the study of medical ethics or medical humanities, a monitor to assist an inmate in his decision to have an orchiectomy. The monitor must have experience in the mental health field, in law, and in ethics. The monitor shall consult with the inmate to:

(1) determine whether adequate information regarding the orchiectomy has been provided to the inmate by medical professionals providing treatment or advice to the inmate;

(2) provide information regarding the orchiectomy to the inmate if the monitor believes the inmate is not adequately informed about the orchiectomy;

(3) determine whether the inmate is free from coercion in his decision regarding the orchiectomy; and

(4) advise the inmate to withdraw his request for an orchiectomy if the monitor determines the inmate is being coerced to have an orchiectomy.

(g) A monitor appointed under Subsection (f) is not liable for damages arising from an act or omission under Subsection (f) unless the act or omission was intentional or grossly negligent.

(h) A monitor shall permit only those inmates determined to be proper candidates for an orchiectomy to receive the procedure and may deny an inmate's request to receive an orchiectomy for any reason. An inmate may not request an orchiectomy under this section if the inmate has previously been denied the procedure under this section on two occasions or on two occasions requested the procedure but subsequently withdrawn the request.

Sec. 501.062. STUDY OF RATE OF RECIDIVISM AMONG SEX OFFENDERS. (a) The department shall conduct a long-term study for at least 10 years after the date an orchiectomy is performed under Section 501.061 to measure the rate of recidivism among inmates who undergo the procedure.

(b) During the study period under Subsection (a), the department shall provide for the psychiatric or psychological evaluation of an inmate who has

undergone an orchiectomy under Section 501.061 and who volunteers to undergo the evaluation.

(c) Before each regular session of the legislature, the department shall submit to the legislature a report that compares the rate of recidivism of sex offenders released from the institutional division who have undergone an orchiectomy to the rate of recidivism of those sex offenders who have not.

(d) The department may contract with a public or private entity to conduct the study required under this section.

SECTION \_\_\_\_\_. Section 3, Article 37.07, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) Regardless of whether the punishment will be assessed by the judge or the jury, neither the state nor the defendant may offer before sentencing evidence that the defendant plans to undergo an orchiectomy.

SECTION \_\_\_\_\_. Section 11, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e) A judge may not require a defendant to undergo an orchiectomy as a condition of community supervision.

SECTION \_\_\_\_\_. Section 8, Article 42.18, Code of Criminal Procedure, is amended by adding Subsection (r) to read as follows:

(r) A parole panel may not require an inmate to undergo an orchiectomy as a condition of parole or release to mandatory supervision.

Amendment No. 6 was withdrawn.

#### **Amendment No. 7**

Representative Talton offered the following amendment to the bill:

Amend **SB 15** by adding a new SECTION, appropriately numbered, to read as follows:

SECTION \_\_\_\_\_. Article 17.42, Code of Criminal Procedure, is amended by adding Sections 5 and 6 to read as follows:

Sec. 5. (a) A personal bond pretrial release office established under this article shall:

(1) prepare a record containing information about any accused person identified by case number only who, after review by the office, is released by a court on personal bond;

(2) update the record on a monthly basis; and

(3) post a copy of the record in the office of the clerk of the county court in any county served by the office.

(b) In preparing a record under Subsection (a), the office shall include in the record a statement of:

(1) the offense with which the person is charged;

(2) any offense for which the person was convicted within the six years preceding the date on which charges were filed in the pending matter;

(3) the dates of any court appearances scheduled in the matter that were previously unattended by the person;

(4) whether a warrant has been issued for the person's arrest for failure to appear in accordance with the terms of the person's release;

(5) whether the person has failed to comply with conditions of release on personal bond; and

(6) the presiding judge or magistrate who authorized the personal bond.

(c) This section does not apply to a personal bond pretrial release office that, on January 1, 1995, was operated by a Community Corrections and Supervision Department established under Article 42.131 of this code.

Sec. 6. (a) Not later than April 1 of each year, a personal bond office established under this article shall submit to the commissioners court or district and county judges that established the office an annual report containing information about the operations of the office during the preceding year.

(b) In preparing an annual report under Subsection (a), the office shall include in the report a statement of:

(1) the office's operating budget;

(2) the number of positions maintained for office staff;

(3) the number of accused persons who, after review by the office, were released by a court on personal bond; and

(4) the number of persons described by Subdivision (3):

(A) who were convicted of the same offense or of any felony within the six years preceding the date on which charges were filed in the matter pending during the person's release;

(B) who failed to attend a scheduled court appearance;

(C) for whom a warrant was issued for the person's arrest for failure to appear in accordance with the terms of the person's release; and

(D) who were arrested for any other offense while on the personal bond.

(c) This section does not apply to a personal bond pretrial release office that, on January 1, 1995, was operated by a Community Corrections and Supervision Department established under Article 42.131 on this code.

Amendment No. 7 was adopted without objection.

### **Amendment No. 8**

Representative Talton offered the following amendment to the bill:

Amend **SB 15** by adding the following new SECTIONS to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Article 35.11, Code of Criminal Procedure, is amended to read as follows:

Art. 35.11. PREPARATION OF LIST. (a) The trial judge, on the demand of the defendant or his attorney, or of the State's counsel, shall cause a sufficient number of jurors from which a jury may be selected to try the case to be randomly selected from the members of the general panel drawn or assigned as jurors in the case. The clerk shall randomly select the jurors by a computer or other process of random selection and shall write or print the names, in the order selected, on the jury list from which the jury is to be selected to try the case. The clerk shall deliver a copy of the list to the State's counsel and to the defendant or his attorney.

(b) The trial judge may not allow more than one random selection of jurors by each party under this article.

SECTION \_\_\_\_\_. Article 35.11, Code of Criminal Procedure, as amended by this Act, applies only to the trial of an offense that begins on or after the effective date of this Act. A trial of an offense that began before the effective date of this Act is governed by the law in effect at the time the trial began, and the former law is continued in effect for that purpose.

Amendment No. 8 was adopted without objection.

#### **Amendment No. 9**

Representative Allen offered the following amendment to the bill:

Amend **SB 15** by adding appropriately numbered SECTIONS of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 1(5), Article 6252-13c.1, Revised Statutes, is amended to read as follows:

(5) "Reportable conviction or adjudication" means:

(A) a conviction for violation of Section 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), 25.02 (Prohibited sexual conduct) [~~(incest)~~], Penal Code;

(B) a conviction for violation of Section 43.24 (Sale, distribution, or display of harmful material to minor), Section 43.25 (Sexual performance by a child), Section 43.251 (Employment harmful to children), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) the second [~~fourth~~] conviction for a violation of Section 21.07 (Public lewdness) or Section 21.08 (Indecent exposure), Penal Code;

(D) an adjudication of delinquent conduct based on a violation of one of the offenses listed in Paragraph (A) or (B) of this subdivision or for which two [~~four~~] violations of the offenses listed in Paragraph (C) of this subdivision are shown; [~~or~~]

(E) a deferred adjudication for an offense listed in Paragraph (A) or (B) of this subdivision;

(F) a conviction under the laws of the United States or another state for an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A) or (B) of this subdivision; or

(G) the fourth conviction under the laws of the United States or another state for an offense containing elements that are substantially similar to the elements of the offense of indecent exposure.

SECTION \_\_\_\_\_. Section 3, Article 6252-13c.1, Revised Statutes, is amended to read as follows:

Sec. 3. PRERELEASE NOTIFICATION. (a) At least 30 days, but not earlier than 90 days, before a person who will be subject to registration under this article is due to be released from a penal institution, the Board of Pardons and Paroles shall determine the person's level of risk to the community, assign to the person a numeric risk level using the guidelines established under Subsection (b) of this section, and immediately send a written notice of the risk level to the penal institution from which the person is due to be released. On receiving notice under this subsection, an official of the penal institution shall:

(1) inform the person of the person's duty to register under this article and require the person to sign a written statement that the person was so informed or, if the person refuses to sign the statement, certify that the person was so informed;

(2) obtain the address where the person expects to reside on the person's release; and

(3) inform the department and the applicable local law enforcement authority in the municipality or unincorporated area of the county in which the person expects to reside of the person's name, release date, new address, numeric risk level, and the offense of which the person was convicted.

(b) In assigning a numeric risk level to a person subject to registration under this article, the Board of Pardons and Paroles shall use the following general guidelines:

(1) level one:

(A) the offense for which the person is subject to registration involves a victim or a witness to the offense who is a person younger than 17 years of age;

(B) the person used a weapon in the commission of the offense for which the person is subject to registration; or

(C) the person has demonstrated a history and propensity to engage in criminal sexual conduct with a primary purpose of victimization;

(2) level two:

(A) the person has been convicted of only one offense for which the person is subject to registration under this article; and

(B) the person has no demonstrated history and propensity to engage in criminal sexual conduct with a primary purpose of victimization; and

(3) level three:

(A) the person has been convicted of only one offense for which the person is subject to registration under this article;

(B) the person received mental health or other appropriate treatment during the person's term of confinement in a penal institution and shows signs of successful rehabilitation; and

(C) there is reason to believe that the person does not pose a significant threat to the community.

(c) If a person who is subject to registration under this article receives an order deferring adjudication, community supervision [~~probation~~], or only a fine, the court pronouncing the order or sentence shall [~~conduct the prerelease notification specified in Subsection (a) of this section~~] on the day of entering the order or sentencing:

(1) inform the person of the person's duty to register under this article and require the person to sign a written statement that the person was informed of the duty, or if the person refuses to sign the statement, certify that the person was informed of the duty;

(2) make a determination of the person's numeric risk level using the guidelines described in Subsection (b) of this section; and

(3) inform the department and the applicable local law enforcement authority in the municipality or unincorporated area of the county in which the person expects to reside of the person's name, release date, new address, numeric risk level, and the offense of which the person was convicted.



(d) On a person's registration under Section 2(a) of this article or on being informed under this section, the local law enforcement authority shall post notice at the locations described in Subsection (e) of this section and provide a copy of the posted notice to the superintendent of the public school district and to the administrator of any private school in the public school district in which the person subject to registration intends to reside. The authority may not include in the notice any information that would disclose the identity of the victim of the offense for which the person is subject to registration. The authority shall include in the notice:

- (1) the person's name;
- (2) the street name of the person's intended address, but not the number of the intended address;
- (3) the nature of the offense for which the person was charged or convicted, excluding any indication of whether the offense is a violation of Section 25.02, Penal Code;
- (4) the person's numeric risk level assigned under this article and the guidelines used to determine a person's risk level generally; and
- (5) the date of the person's release from a penal institution, if any.

(e) A local law enforcement authority posting notice under Subsection (d) of this section shall post the notice at:

- (1) the county courthouse, the office of the sheriff, and each office of a constable in the county in which the person subject to registration intends to reside; and
- (2) the headquarters of the municipal police department, the main post office location, and the main branch of the public library in the municipality in which the person subject to registration intends to reside, or if the person does not intend to reside in a municipality, at those locations in the municipality closest in proximity to where the person intends to reside.

SECTION \_\_\_\_\_. Section 4, Article 6252-13c.1, Revised Statutes, is amended to read as follows:

Sec. 4. CHANGE OF ADDRESS. (a) If a person required to register changes address, the person shall provide written notice not later than the seventh day after the change to the local law enforcement authority with whom the person last registered. Not later than the third day after receipt of this notice, the local law enforcement authority shall forward this information to the department.

(b) If the person moves to another [a-new] municipality or county in this state, the department shall inform the applicable local law enforcement authority in the new area of the person's residence.

(c) On being informed by the department under Subsection (b) of this section, an authority that has not posted notice under Section 3(d) of this article shall post notice at the locations described in Subsection (d) of this section and provide a copy of the posted notice to the superintendent of the public school district and to the administrator of any private school in the public school district in which the person subject to registration intends to reside. The authority may not include in the notice any information that would disclose the identity of the victim of the offense for which the person is subject to registration. The local law enforcement authority shall include in the notice:

(1) the person's name;

(2) the street name of the person's intended address, but not the number of the intended address;

(3) the nature of the offense for which the person was charged or convicted, excluding any indication of whether the offense is a violation of Section 25.02, Penal Code;

(4) the person's numeric risk level assigned under this article and the guidelines used to determine a person's risk level generally; and

(5) the date of the person's release from a penal institution, if any.

(d) A local law enforcement authority posting notice under Subsection (c) of this section shall post the notice at the same locations that the authority is required to post notice under Section 3(e) of this article.

SECTION \_\_\_\_\_. Section 5(a), Article 6252-13c.1, Revised Statutes, is amended to read as follows:

(a) A person who releases the numeric street address, driver's license number, telephone number, or social security number of a person subject to [information required for] registration under this article, in order to identify the person as a person who is subject to registration as a sex offender, to a person other than a full-time, fully paid, employed law enforcement officer or criminal justice official commits an offense.

SECTION \_\_\_\_\_. Article 6252-13c.1, Revised Statutes, is amended by adding Section 5A to read as follows:

Sec. 5A. IMMUNITY FOR RELEASE OF CERTAIN INFORMATION.

(a) If a local law enforcement authority is directed under Section 3 or 4 of this article to release to the public information regarding a person required to register, an individual, agency, entity, or other local law enforcement authority may release that information to the public and is not liable under Chapter 101, Civil Practice and Remedies Code, or any other law for damages arising from the release of that information.

(b) For the purposes of determining liability, the release or withholding of information by an appointed or elected officer of an agency, entity, or authority is a discretionary act.

SECTION \_\_\_\_\_. Section 8(a), Article 6252-13c.1, Revised Statutes, is amended to read as follows:

(a) This article applies only to a reportable conviction or adjudication:

(1) occurring on or after:

(A) September 1, 1991, if the conviction is for or the adjudication is based on an offense listed in Section 1(5)(A) or (C) of this article; [or]

(B) September 1, 1993, if the conviction is for or the adjudication is based on an offense listed in Section 1(5)(B) of this article; or

(C) September 1, 1995, if the conviction is for an offense described under Section 1(5)(F) or (G) of this article; or

(2) for which an order of deferred adjudication is entered by the court on or after September 1, 1993.

SECTION \_\_\_\_\_. Section 9, Article 6252-13c.1, Revised Statutes, is amended to read as follows:

Sec. 9. EXPIRATION OF DUTY TO REGISTER. (a) The duty to

register for a person with a reportable adjudication under Section 1(5)(D) of this article ends on the 10th anniversary of the date on which:

(1) the person ceases to be under the supervision of the Texas Youth Commission, if the person was committed to the Texas Youth Commission other than under a determinate sentence;

(2) the person is discharged from the Texas Youth Commission or the Texas Department of Criminal Justice, whichever date is later, if the person was committed to the Texas Youth Commission under a determinate sentence; or

(3) the disposition is made or the person completes the terms of the disposition, whichever date is later, if the person received a disposition that did not include a commitment to the Texas Youth Commission [person's 21st birthday].

(b) The duty to register for a person with a reportable conviction ends on the 10th anniversary of the date on which the person is released from the institutional division of the Texas Department of Criminal Justice or [day that] the person discharges parole or community supervision, whichever date is later [probation].

(c) The duty to register for a person with a reportable conviction or adjudication based on an order of deferred adjudication under Section 1(5)(E) of this article [Act] ends on the 10th anniversary of the date on which:

(1) the court dismisses the criminal proceedings against the person and discharges the person; or

(2) the person is released from the institutional division of the Texas Department of Criminal Justice or the person discharges parole or community supervision [probation], if the court proceeded [proceeds] to final adjudication in the case.

SECTION \_\_\_\_\_. Section 13(a), Article 42.18, Code of Criminal Procedure, is amended to read as follows:

(a) A warrant for the return of a paroled prisoner, a prisoner released to mandatory supervision, a prisoner released although not eligible for release, a resident released to a preparole or work program, a prisoner released on emergency reprieve or on furlough, or a person released on a conditional pardon to the institution from which the person was paroled, released, or pardoned may be issued by the director or a designated agent of the director in cases of parole or mandatory supervision, or by the board on order by the governor in other cases, if there is reason to believe that the person has been released although not eligible for release, if the person has been arrested for an offense, if there is a verified complaint stating that the person violated a rule or condition of release, or if there is reliable evidence that the person has exhibited behavior during the person's release that indicates to a reasonable person that the person poses a danger to society that warrants the person's immediate return to custody. The director or a designated agent of the director shall issue a warrant for the return of a person on parole or released to mandatory supervision who is subject to registration under Article 6252-13c.1, Revised Statutes, if there is reason to believe that the person failed to register or failed to comply with another requirement of that article. The person may be held in custody pending a determination of all facts surrounding the alleged offense, violation of a rule or condition of release, or dangerous behavior. A designated agent of the

director acts independently from a parole officer and must receive specialized training as determined by the director. Such warrant shall authorize all officers named therein to take actual custody of the prisoner and detain and house the prisoner until a parole panel orders the return of the prisoner to the institution from which he was released. Pending hearing, as hereinafter provided, upon any charge of parole violation, ineligible release, or violation of the conditions of mandatory supervision, a prisoner returned to custody shall remain incarcerated. If the director, a board member, or a designated agent of the director or the board is otherwise authorized to issue a warrant under this subsection, the pardons and paroles division may instead issue to a prisoner a summons requiring the prisoner to appear for a hearing under Section 14 of this article. The summons must state the time, place, date, and purpose of the hearing.

SECTION \_\_\_\_\_. Section 18, Article 42.18, Code of Criminal Procedure, is amended to read as follows:

Sec. 18. CONFIDENTIAL INFORMATION. (a) Except as provided by Subsection (b), all [AH] information obtained and maintained in connection with inmates of the institutional division subject to parole, release to mandatory supervision, or executive clemency, or individuals who may be on mandatory supervision or parole and under the supervision of the pardons and paroles division, or persons directly identified in any proposed plan of release for a prisoner, including victim impact statements, lists of inmates eligible for parole, and inmates' arrest records, shall be confidential and privileged information and shall not be subject to public inspection; provided, however, that all such information shall be available to the governor, the members of the board, and the Criminal Justice Policy Council to perform its duties under Section 413.021, Government Code, upon request. It is further provided that statistical and general information respecting the parole and mandatory supervision program and system, including the names of paroled prisoners, prisoners released to mandatory supervision, and data recorded in connection with parole and mandatory supervision services, shall be subject to public inspection at any reasonable time.

(b) This section does not apply to information regarding a sex offender if the information is authorized for release under Article 6252-13c.1, Revised Statutes.

SECTION \_\_\_\_\_. Section 6, Article 6252-13c.1, Revised Statutes, is repealed.

SECTION \_\_\_\_\_. (a) Except as provided by Subsection (b), the change in law made to Article 6252-13c.1, Revised Statutes, by this Act applies only to a reportable conviction or adjudication as defined by that article that occurs on or after the effective date of this Act or to an order of deferred adjudication for a person required to register under that article that is entered by the court on or after the effective date of this Act. A reportable conviction or adjudication that occurs before the effective date of this Act or an order of deferred adjudication that is entered before the effective date of this Act is covered by the law in effect when the conviction or adjudication occurred or the order was entered, and the former law is continued in effect for that purpose.

(b) The duty of the Department of Public Safety to destroy registration information of a person under Section 6, Article 6252-13c.1, Revised Statutes, applies only to a person with a reportable adjudication who has reached the age of 21 before the effective date of this Act.

Amendment No. 9 was adopted without objection.

#### **Amendment No. 10**

Representative Talton offered the following amendment to the bill:

Amend **SB 15** by adding the following appropriately numbered section to the bill and renumbering subsequent sections of the bill accordingly:

SECTION \_\_\_\_\_. Sections 23A(a)(1) and (2), Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) Except as provided by Subdivision (2) of this subsection, a [Any] person whose license has been suspended for causes other than physical or mental disability or impairment, or other than a conviction under Section 49.04, Penal Code [Article 6701H-1, Revised Statutes], may file with the judge of the county court or district court having jurisdiction within the county of his residence, or with the judge of the county court or district court having jurisdiction within the county where an offense occurred for which his license was suspended, a verified petition setting forth in detail an essential need for operating a motor vehicle.

(2) A person whose license has been automatically suspended or revoked under this Act or the Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), following a conviction of an offense under the laws of this state [under Article 6701H-1, Revised Statutes], and who has not been issued, in the 10 years preceding the date of filing, more than one occupational license following a conviction under the laws of this state [Article 6701H-1, Revised Statutes, or Article 6701H-2, Revised Statutes, as Article 6701H-2 existed before January 1, 1984], may file only with the judge of the county court or district court in which the person was convicted a verified petition stating that the person was convicted in that court of an offense under the laws of this state [Article 6701H-1], and setting forth in detail an essential need for operating a motor vehicle.

Amendment No. 10 was adopted without objection.

#### **Amendment No. 11**

Representative Wolens offered the following amendment to the bill:

Amend **SB 15** on third reading by adding an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. Section 1(5), Article 6687b-1, Revised Statutes, is amended to read as follows:

(5) "Driver's license" has the meaning assigned by Section 1, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes). The term includes a license or license to operate a motor vehicle as defined by that section of that Act.

Amendment No. 11 was adopted without objection.

(Speaker in the chair)

**Amendment No. 12**

Representative Hartnett offered the following amendment to the bill:

Amend **SB 15** by adding an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. Title 116, Revised Statutes, is amended by adding Article 67011-8 to read as follows:

Art. 67011-8. SOBRIETY CHECKPOINTS

Sec. 1. AUTHORIZATION FOR SOBRIETY CHECKPOINTS. A law enforcement agency may operate a temporary checkpoint as provided by this article on a street or highway to determine whether persons operating motor vehicles on the street or highway are intoxicated and in violation of Section 49.04, Penal Code.

Sec. 2. APPROVAL OF AND PROCEDURES FOR SOBRIETY CHECKPOINTS. (a) A peace officer of at least the rank of lieutenant or its equivalent in the law enforcement agency must approve the operation of a checkpoint by peace officers of the agency and the procedures to be used in the operation of the checkpoint before the checkpoint begins operation.

(b) The law enforcement agency must record in writing the procedures:

(1) used in selecting the site for the checkpoint; and

(2) to be used in the operation of the checkpoint.

(c) The procedures for the operation of a checkpoint must ensure that the selection of motor vehicles to be stopped is reasonably predictable and nonarbitrary. For example, every vehicle or every other vehicle entering the checkpoint, from one or both directions, may be stopped.

(d) The law enforcement agency, in establishing the location, time, and design of a checkpoint, shall consider the safety of the public entering the checkpoint and the peace officers operating the checkpoint. The law enforcement agency shall make reasonable efforts to place signs or other devices to advise oncoming drivers of the checkpoint and the purpose of the checkpoint, to demarcate the checkpoint with flares, flags, or traffic cones, and otherwise to illuminate the checkpoint as necessary.

(e) The peace officer who makes the initial traffic directive or other communication with the driver of a vehicle at the checkpoint must be wearing a uniform distinguishable from civilian dress.

(f) The law enforcement agency shall establish procedures governing the encounters between drivers and the peace officers to ensure that:

(1) an intrusion on a driver is minimized; and

(2) an inquiry be reasonably related to determining whether the driver is intoxicated and in violation of Section 49.04, Penal Code.

(g) A peace officer may request a person driving a vehicle at a checkpoint to display the person's driver's license and to furnish evidence of financial responsibility as required by law. A peace officer may not direct a driver or a passenger in a motor vehicle to leave the vehicle or move the vehicle off the street, highway, or routine checkpoint diversion route unless the officer has reasonable suspicion or probable cause to believe that the person has committed or is committing an offense. The design of a checkpoint may require that each

motor vehicle passing through the checkpoint be diverted to a location adjacent to the street or highway to ensure safety.

(h) A peace officer may not require a driver to perform a sobriety test unless the officer has reasonable suspicion or probable cause to believe that the driver is violating Section 49.04, Penal Code. A peace officer who requires or requests a driver to provide a specimen of breath, blood, or urine must comply with Chapter 434, Acts of the 61st Legislature, Regular Session, 1969 (Article 6701I-5, Vernon's Texas Civil Statutes).

(i) Unless a peace officer has reasonable suspicion or probable cause to detain a driver or a passenger for a criminal offense, the time during which an officer makes an inquiry of a driver or passenger should not exceed two minutes, and the total time during which the driver must wait to pass through the checkpoint should not exceed 10 minutes. The law enforcement agency shall make reasonable efforts to reduce these periods to not more than one and five minutes, respectively.

(j) The law enforcement agency shall make reasonable efforts to publicize the operation of a checkpoint but is not required to disclose the precise date, time, location, or purpose of the checkpoint.

(k) A law enforcement agency may not operate a checkpoint at one location for more than four hours and may not operate a checkpoint at the same location more than twice in a seven-day period. For the purposes of this subsection, checkpoints located within one-half mile of each other are considered to be at the same location. This subsection does not apply in an emergency.

(l) A law enforcement agency shall keep a record of the operation of a checkpoint that contains:

(1) the date, time, location, and duration of the checkpoint;

(2) the number of motor vehicles stopped at the checkpoint and the number and nature of arrests made and citations issued at the checkpoint; and

(3) the identities of the peace officers operating the checkpoint.

Sec. 3. VISUAL RECORDING OF SOBRIETY CHECKPOINTS. (a) A law enforcement agency that operates a sobriety checkpoint shall visually record the operation of the checkpoint. The visual recording must display the day, date, and time that the recording was made.

(b) The law enforcement agency shall retain each recording of the operation of a checkpoint until at least the first anniversary of the operation of that checkpoint.

(c) No later than the third working day of each month, a law enforcement agency shall report the operation of each checkpoint during the preceding month to the traffic safety section of the traffic operations division of the Texas Department of Transportation at its offices in Austin.

(d) The traffic operations division is entitled to:

(1) view each visual recording of the operation of a checkpoint made by a law enforcement agency under Subsection (a) of this section; and

(2) inspect any information in the possession of the law enforcement agency that relates to the operation of a sobriety checkpoint by the agency.

(e) No later than January 31, 1997, the traffic operations division shall submit a report on the effectiveness of sobriety checkpoints operated under this



article in this state to the governor, the lieutenant governor, and the speaker of the house of representatives. This subsection expires February 1, 1997.

Sec. 4. DEFINITIONS. In this article:

(1) "Law enforcement agency" means:

(A) the Department of Public Safety of the State of Texas;

(B) the sheriff's department of a county; or

(C) the police department of a municipality.

(2) "Street or highway" has the meaning assigned by Section 13(a), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

A record vote was requested.

Amendment No. 12 failed of adoption (not receiving the necessary two-thirds vote) by (Record 523): 84 Yeas, 57 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Cook; Corte; Counts; Crabb; Craddick; Culberson; Dear; Denny; Driver; Duncan; Finnell; Goodman; Goolsby; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Junell; Kamel; Krusee; Kubiak; Kuempel; Lewis, R.; Luna; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Nixon; Oakley; Park; Patterson; Pitts; Ramsay; Raymond; Reyna; Rusling; Sadler; Seidlits; Shields; Siebert; Smithee; Staples; Stiles; Swinford; Talton; Telford; Tillery; Turner, B.; Uher; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Delisi; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Gallego; Giddings; Glaze; Gray; Gutierrez; Hawley; Hernandez; Hightower; Hirschi; Hudson; Jones, J.; King; Lewis, G.; Longoria; Maxey; McDonald; Moreno; Munoz; Naishtat; Ogden; Oliveira; Pickett; Place; Price; Puente; Rabuck; Rangel; Rhodes; Rodriguez; Romo; Serna; Solis; Thompson; Torres; Turner, S.; Van de Putte; Walker; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Wilson.

Absent — Coleman; Combs; Harris; Hochberg; Saunders; Solomons.

### **Amendment No. 13**

Representative Hochberg offered the following amendment to the bill:

Amend **SB 15** on third reading by adding an appropriately numbered SECTION to read as follows and by numbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Article 42.014, Code of Criminal Procedure, is amended to read as follows:

Art. 42.014. FINDING THAT OFFENSE WAS COMMITTED BECAUSE OF BIAS OR PREJUDICE. In the punishment phase of the trial of an offense under the Penal Code, if the court determines that the defendant intentionally

selected the victim primarily because of the defendant's bias or prejudice against ~~a person or~~ a group, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of that case.

Amendment No. 13 was adopted. (Corte recorded voting no)

**SB 15**, as amended, was passed.

### MESSAGE FROM THE SENATE

Austin, Texas, May 24, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HB 359** by Danburg, et al. (Sponsor-Montford), relating to breast-feeding in public or private places, including worksites.

**HB 1243** by Smithee (Sponsor-Sibley), relating to requirements for certain insurers and health maintenance organizations concerning financial solvency (amended).

**HB 1375** by Delisi (Sponsor-Harris, Chris), relating to the punishment for the purchase, possession, or consumption of alcoholic beverages by a minor.

**HB 1687** by Alonzo (Sponsor-Gallegos), relating to the notification of school personnel of the arrest or detention of a student (amended).

**HB 2129** by Grusendorf (Sponsor-Patterson, Jerry), relating to state, county, and municipal hotel occupancy taxes (committee substitute and amended).

**SCR 167** by Barrientos, congratulating the O. Henry Museum on its 18th Annual World Championship Pun-Off.

**HB 76** by Munoz (Sponsor-Zaffirini), relating to the release of certain medical records of missing persons.

**HB 325** by Rabuck (Sponsor-Galloway), relating to requiring public notice of an application for an authorization to store certain radioactive waste (amended).

**HB 466** by Brimer, et al. (Sponsor-Cain), relating to the compilation and use of information pertaining to criminal combinations; providing a penalty (amended).

**HB 2793** by Shields (Sponsor-Wentworth), relating to the regulation of insurance holding companies.

**HB 3049** by Junell (Sponsor-Montford), making appropriations for and directing payment of certain miscellaneous claims and judgments out of funds designated by this Act and requiring approval of the claims in the manner specified in this Act before payment is made (committee substitute and amended).

**HB 3073** by Gallego (Sponsor-Cain), relating to the power of the courts of appeals to issue writs of mandamus (amended).

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to the following: **SB 488** by viva voce vote; **SB 1365** by viva voce vote; **SB 1371** by 31 Yeas, 0 Nays; and **SB 1017** by 29 Yeas, 2 Nays.

Respectfully,  
Betty King  
Secretary of the Senate

**SB 135 ON THIRD READING**  
**(Thompson, Puente, and Greenberg - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 135**, A bill to be entitled An Act relating to the punishment for the offense of violation of a protective order by a habitual offender under that statute.

The bill was read third time and was passed.

**SB 349 ON THIRD READING**  
**(Nixon and Thompson - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 349**, A bill to be entitled An Act relating to the payment of a fee to a court clerk in certain criminal cases and a fee for certification by the county clerk.

The bill was read third time and was passed.

**SB 374 ON THIRD READING**  
**(Junell - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 374**, A bill to be entitled An Act relating to the review and continuation of certain state agencies subject to the Texas Sunset Act.

The bill was read third time.

**Amendment No. 1**

Representative Junell offered the following amendment to the bill:

Amend **SB 374** on third reading by striking SECTION 2.02 of the bill and renumbering subsequent SECTIONS of Article 2 of the bill appropriately.

Amendment No. 1 was adopted without objection.

**SB 374**, as amended, was passed.

**SB 569 ON THIRD READING**  
**(Hightower - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 569**, A bill to be entitled An Act relating to the provision of hospice services to inmates and defendants confined in facilities operated by the Texas Department of Criminal Justice.

The bill was read third time and was passed.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Marchant on motion of B. Hunter.

### **SB 1049 ON THIRD READING (Place - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1049**, A bill to be entitled An Act relating to the Crime Victims' Compensation Act; providing civil and administrative penalties.

The bill was read third time.

### **Amendment No. 1**

Representative Madden offered the following amendment to the bill:

Amend **SB 1049**, on third reading, in SECTION 1 of the bill, in proposed Section 56.48(a), Code of Criminal Procedure, on page 23, line 12, after the comma delete "the injury or death occurred" and substitute the following "in the county where the injury or death occurred or in a District court of Travis County.

(Patterson in the chair)

Amendment No. 1 was adopted without objection.

(Speaker in the chair)

### **Amendment No. 2**

Representative Madden offered the following amendment to the bill:

Amend **SB 1049**, on third reading, in SECTION 1 of the bill, in proposed Section 56.48(a), Code of Criminal Procedure, between "bring suit in" and "the district court" (house committee report, page 23, line 6), by inserting "the district court of Travis County or in".

Amendment No. 2 was withdrawn.

### **Amendment No. 3**

Representative Chisum offered the following amendment to the bill:

Amend **SB 1049** as follows:

On page 5, line 11, between "occurred" and the period, insert "and who is related by consanguinity or affinity to the victim".

Amendment No. 3 was adopted without objection.

**SB 1049**, as amended, was passed.

### **SB 1074 ON THIRD READING (Talton and Delisi - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 1074**, A bill to be entitled An Act relating to the operations of a grand jury; providing penalties.

The bill was read third time and was passed.

**SB 494 ON THIRD READING**  
**(Place - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 494**, A bill to be entitled An Act relating to the imposition of a lien on certain persons convicted of criminal offenses to secure payment of restitution, fines, or costs.

The bill was read third time and was passed.

**SB 1260 ON THIRD READING**  
**(Patterson - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1260**, A bill to be entitled An Act relating to the use of the general obligation bonding authority of the farm and ranch finance program fund for the Texas agricultural fund within the Texas Agricultural Finance Authority.

The bill was read third time and was passed.

**SB 1391 ON THIRD READING**  
**(Brimer - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1391**, A bill to be entitled An Act relating to records and seals of notaries public and to qualification as a notary public.

The bill was read third time and was passed.

**SB 1428 ON THIRD READING**  
**(Seidlits - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1428**, A bill to be entitled An Act relating to abolishing certain state governmental entities.

The bill was read third time.

**Amendment No. 1**

Representative R. Lewis offered the following amendment to the bill:

Amend **SB 1428** on third reading by striking ARTICLE 7 of the bill (relating to the Edwards Aquifer Legislative Oversight Committee) and renumbering subsequent ARTICLES and SECTIONS of the bill appropriately.

Amendment No. 1 was adopted without objection.

**SB 1428**, as amended, was passed.

**SB 1334 ON THIRD READING****(Naishtat, Ehrhardt, Gray, S. Turner, et al. - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 1334**, A bill to be entitled An Act relating to the relationship between landlords and tenants and to the regulation of residential rental locators; providing penalties.

The bill was read third time.

**Amendment No. 1**

Representatives Naishtat and Ramsay offered the following amendment to the bill:

Amend **SB 1334** by adding a new SECTION at the end of the bill to read as follows:

SECTION \_\_\_\_\_. Amend Chapter 92, Property Code, by adding a new Section 92.1031, to read as follows:

Sec. 92.1031. (a) Except as provided in Subsection (b), a landlord who receives a security deposit or rent prepayment for a dwelling from a tenant who fails to occupy the dwelling according to a lease between the landlord and the tenant, may not retain the security deposit or rent prepayment if

(1) the tenant secures a replacement tenant satisfactory to the landlord and the replacement tenant occupies the dwelling on or before the commencement date of the lease, or

(2) the landlord secures a replacement tenant satisfactory to the landlord and the replacement tenant occupies the dwelling on or before the commencement date of the lease.

(b) If the landlord secures the replacement tenant, the landlord may retain and deduct from the security deposit or rent prepayment either;

(1) a sum agreed to in the lease as a lease cancellation fee, or

(2) actual expenses incurred by the landlord in securing the replacement, including a reasonable amount for the time of the landlord in securing the replacement tenant.

SECTION \_\_\_\_\_. The foregoing SECTION shall only apply to leases entered into after the effective date of this Act.

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Seidlits offered the following amendment to the bill:

Amend **SB 1334** on Third Reading as follows:

(1) in SECTION 4 by striking Subsection (b) of Sec. 24 of the Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) in its entirety and substituting the following to read:

"(b) A person may not engage in business as a residential rental locator in this state unless the person holds a license issued under this Act to operate as a real estate broker or real estate salesman and complies with the continuing education requirements under section 7A of this Act;

(2) in SECTION 4 by adding Subsection (a) of Section 7A of the Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) to be amended by SECTION 4 as follows:

"(a) To renew an active real estate broker license or an active real estate salesman license that is not subject to the annual education requirements of this Act, the licensee must provide the commission proof of attendance at at least 15 classroom hours of continuing education courses approved by the commission during the term of the current license. The commission by rule may provide for the substitution of relevant education experience or correspondence courses approved by the commission instead of classroom attendance. In addition, supervised video instruction may be approved by the commission as a course counting as classroom hours of mandatory continuing education. At least six hours of instruction must be devoted to the rules of the commission, fair housing laws, landlord-tenant law and other Property Code issues, agency laws, antitrust laws, the Deceptive Trade Practices-Consumer Protection Act (Subchapter E, Chapter 17, Business and Commerce Code), disclosure to buyer, landlords, tenants, and sellers, current contract and addendum forms, the unauthorized practice of law, case studies involving violations of laws and regulations, current Federal Housing Administration and Department of Veteran Affairs [Veterans Administration] regulations, tax laws, property tax consulting laws and legal issues, or [and] other legal topics approved by the commission. The remaining hours may be devoted to other real estate-related topics approved by the commission. The commission may consider equivalent courses for continuing education credit. Property tax consulting laws and legal issues include but are not limited to the tax code, preparation of property tax reports, the unauthorized practice of law, agency laws, tax laws, laws concerning property taxes or assessments, deceptive trade practices, contract forms and addendum, and other legal topics approved by the commission [The commission, on the request of a provider of education, shall review a core real estate course authorized under Section 7 of this Act and may approve it as a mandatory counting education course]. Real Estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit and core real estate courses under Section 7(a) of this Act shall automatically be approved a mandatory continuing education courses under this Act. The commission may not require examinations except for correspondence courses or courses offered by alternative delivery systems such as computers. Daily classroom course segments must be at least three hours long but not more than 10 hours long. ~~[If the license being renewed under this section was issued for less than two years, the licensee must provide the commission proof of attendance at least eight classroom hours of continuing education within the term of the current license, three classroom hours of which must have been devoted to the legal topics specified in this section.]~~

(3) in SECTION 4, by adding Subdivisions (G) and (N) of Subsection 15(a)(6) of the Real estate License Act (Article 6573a, Vernon's Texas Civil Statutes) to be amended in SECTION 4 as follows:

"(G) failing to specify in a listing or in another contract in which the licensee agrees to perform services for which a license is required under this Act a definite termination date which is not subject to prior notice;"

"(N) negotiating or attempting to negotiate the sale, exchange, lease or rental of real property with an owner, ~~[or]~~ lessor, buyer, or tenant, knowing the owner ~~, [or]~~ lessor, buyer, or tenant had a written outstanding contract,



granting exclusive agency in connection with the transaction [~~property~~] to another real estate broker;" and

(4) in SECTION 4, by adding a new Subsection (g) to Sec. 24 of the Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) to read as follows:

"(g) The commission, by rule, may provide for a waiver of some or all of the requirements for a license under this Act, notwithstanding any other provision of this Act, if the applicant was previously licensed in this state within the five year period prior to the filing of the application."

Amendment No. 2 was adopted without objection.

**SB 1334**, as amended, was passed. (Patterson recorded voting no)

**SB 1683 ON THIRD READING**  
**(Howard - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1683**, A bill to be entitled An Act relating to the collection, management, and recycling of used oil and used oil filters; providing criminal penalties.

The bill was read third time and was passed. (Finnell recorded present, not voting)

**SB 103 ON THIRD READING**  
**(Naishtat - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 103**, A bill to be entitled An Act relating to providing guardianship services and a pooled income trust for incapacitated persons.

The bill was read third time and was passed.

**SB 373 ON THIRD READING**  
**(Seidlits - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 373**, A bill to be entitled An Act relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties.

The bill was read third time.

**Amendment No. 1**

Representative Seidlits offered the following amendment to the bill:

Amend **SB 373**, on Third Reading, by striking Floor Amendment No. 17 by Danburg, adding Section 2.09 to bill, adopted on Second Reading.

Amendment No. 1 was adopted without objection.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Gutierrez on motion of Gallego.

**SB 373 - (consideration continued)****Amendment No. 2**

Representative R. Cuellar offered the following amendment to the bill:

Amend **SB 373** Sec.2.2141 of the committee substitute on page 51, line 44 by inserting the words "Texas State Technical College" between the words "institution", and the word "or"

Amendment No. 2 was adopted without objection.

**SB 373**, as amended, was passed. (Conley and Finnell recorded voting no)

**SB 1675 ON THIRD READING  
(Berlanga, Naishtat, and Maxey - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 1675**, A bill to be entitled An Act relating to powers and duties of the Health and Human Services Commission.

The bill was read third time and was passed.

**SB 867 ON THIRD READING  
(Coleman - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 867**, A bill to be entitled An Act relating to the use of the advance interest trust fund by the Texas Employment Commission.

The bill was read third time and was passed.

**SB 964 ON THIRD READING  
(Bailey - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 964**, A bill to be entitled An Act relating to the regulation of driver training; providing a penalty.

The bill was read third time.

**Amendment No. 1**

Representative B. Hunter offered the following amendment to the bill:

Amend **SB 964** on third reading, in SECTION 31 of the bill, following Subsection (a)(3) (Committee printing page 52, between lines 10 and 11), by inserting a new Subdivision (4) of the subsection to read as follows and renumbering subsequent subdivisions appropriately:

(4) notwithstanding Section 13(b)(1)(G), Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), as amended by this Act, a driving safety course approved before the effective date of this Act by the Central Education Agency is not required to be reapproved after the effective date of this Act and no fee is owed in relation to approval of the course unless the fee became due before the effective date of this Act;

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

On behalf of Representative Horn, Representative Talton offered the following amendment to the bill:

Amend **SB 964** on third reading by:

- (1) amending new Sec. 7A(a) by inserting the following new subsections:

"(3) the parent or guardian not be convicted of:

(A) criminally negligent homicide; or

(B) driving while intoxicated.

(4) the parent or guardian not be disabled because of mental illness."

- (2) inserting a new SECTION to read as follows

SECTION\_\_\_\_. Amend Section 21.102, Education Code, by adding Subsection (c) to read as follows:

(c) A public school offering a driver's education program shall make the program accessible to all children who are exempt from the requirements of compulsory attendance under Sec. 21.033 of the Texas Education Code.

Amendment No. 2 was adopted without objection.

**SB 964**, as amended, was passed. (Swinford recorded voting no)

**SB 1013 ON THIRD READING**  
**(Oakley - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1013**, A bill to be entitled An Act relating to complaints against police officers and fire fighters.

The bill was read third time.

**Amendment No. 1**

Representative Hill offered the following amendment to the bill:

Amend **SB 1013**, on Third Reading, by striking the Second Reading Amendments #1 (adding Section 614.024) and #2 (amending Section 614.023(b)).

Representative Oakley moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 524): 79 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Bailey; Berlanga; Bosse; Clemons; Coleman; Combs; Conley; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Hernandez; Hightower; Hilbert; Hirschi; Hochberg; Johnson; Jones, J.; Junell; King; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McDonald; Moreno; Munoz; Naishtat; Oakley; Oliveira; Pickett; Place; Puente; Rabuck; Rangel; Rhodes; Rodriguez; Romo; Seidlits; Serna; Shields; Solis; Stiles; Talton; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wohlgemuth; Wolens; Yarbrough; Zbraneck.

Nays — Alexander; Averitt; Black; Brady; Brimer; Carter; Chisum; Cook; Corte; Counts; Crabb; Craddick; Delisi; Denny; Duncan; Elkins; Finnell; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hill; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Kamel; Krusee; Kuempel; Madden; McCall; Moffat; Mowery; Nixon; Ogden; Park; Patterson; Pitts; Price; Ramsay; Reyna; Rusling; Saunders; Siebert; Staples; Swinford; Turner, B.; Williamson; Woolley; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Gutierrez; Marchant; Wilson.

Absent — Hilderbran; McCoulskey; Raymond; Sadler; Smithee; Solomons.

### STATEMENT OF VOTE

When Record No. 524 was taken, I was temporarily out of the house chamber. I was in the Senate Chamber negotiating details on Legislation. I would have voted yes.

Hilderbran

**SB 1013** was passed. (Alexander, Black, Heflin, T. Hunter, and Swinford recorded voting no)

### SB 956 ON THIRD READING (Puente - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

**SB 956**, A bill to be entitled An Act relating to the conveyance of certain state-owned real property in Bexar County.

A record vote was requested.

The bill was read third time and was passed by (Record 525): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangell; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Gutierrez; Marchant; Wilson.

Absent — Alvarado; Duncan; Edwards; Gallego; McCoulskey; Raymond.

### STATEMENT OF VOTE

When Record No. 525 was taken, I was outside the chamber with constituents from Hudspeth County. I would have voted yes.

Gallego

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Giddings on motion of J. Jones.

### SB 680 ON THIRD READING (Madden - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

**SB 680**, A bill to be entitled An Act relating to the cancellation of and to the filing of a declaration of write-in candidacy in certain elections.

The bill was read third time.

### Amendment No. 1

Representative Yarbrough offered the following amendment to the bill:

Amend **SB 680** on third reading in Section 1 of the bill, in proposed Subchapter C, Chapter 2, Election Code, by inserting a new Section 2.054 (House Committee Report, page 2, between lines 13 and 14) to read as follows:

Sec. 2.054. COERCION AGAINST CANDIDACY PROHIBITED. (a) A person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to not file an application for a place on the ballot or a declaration of write-in candidacy in an election that may be subject to this subchapter.

(b) In this section, "coercion" has the meaning assigned by Section 1.07, Penal Code.

(c) An offense under this section is a Class A misdemeanor unless the intimidation or coercion is a threat to commit a felony, in which event it is a felony of the third degree.

Amendment No. 1 was adopted without objection.

**SB 680**, as amended, was passed. (De La Garza and Finnell recorded voting no)

### SB 863 ON THIRD READING (Combs, Naishtat, Greenberg, and Maxey - House Sponsors)

The speaker laid before the house, on its third reading and final passage,

**SB 863**, A bill to be entitled An Act relating to certain conditions of employment for and investigations of fire fighters and police officers in certain municipalities.

The bill was read third time and was passed.

**LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

S. Turner on motion of Serna.

The following member was granted leave of absence for the remainder of today because of important business in the district:

Conley on motion of Brady.

**SB 748 ON THIRD READING  
(Eiland - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 748**, A bill to be entitled An Act relating to authorizing certain local governments to accept ownership of conveyed property in certain circumstances.

The bill was read third time and was passed.

**SB 1485 ON THIRD READING  
(Van de Putte - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1485**, A bill to be entitled An Act relating to the child fatality review team committee and child fatality review teams.

The bill was read third time and was passed.

**SB 421 ON THIRD READING  
(Kruisee and Hilderbran - House Sponsors)**

The speaker laid before the house, on its third reading and final passage,

**SB 421**, A bill to be entitled An Act relating to the transfer of extraterritorial jurisdiction between certain municipalities.

The bill was read third time and was passed.

**SB 1546 ON THIRD READING  
(Counts - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1546**, A bill to be entitled An Act relating to persons affected by matters in hearings before the Texas Natural Resource Conservation Commission.

The bill was read third time.

**Amendment No. 1**

On behalf of Representative Harris, Representative Counts offered the following amendment to the bill:

Amend **SB 1546** on third reading as follows:

On page 1 line 12 after "hearing." add "Such right, duty, privilege, or power may be a present or future justiciable interest. An interest which can

be shown to be only common to members of the general public does not qualify as a personal justiciable interest.

Amendment No. 1 was adopted without objection.

**SB 1546**, as amended, was passed. (Bosse and Puente recorded voting no)

**SB 1660 ON THIRD READING**  
**(Yost - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 1660**, A bill to be entitled An Act relating to agreed orders of the Texas Natural Resource Conservation Commission.

The bill was read third time and was passed. (Bosse and Puente recorded voting no)

**SB 560 ON THIRD READING**  
**(Bosse - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,

**SB 560**, A bill to be entitled An Act relating to disposal of abandoned vehicles.

A record vote was requested.

The bill was read third time and was passed by (Record 526): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Harris; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Conley; Giddings; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Alvarado; Delisi; Edwards; Hartnett; Hudson; McCoulskey; Price.

**SB 1090 ON THIRD READING**  
**(Bosse - House Sponsor)**

The speaker laid before the house, on its third reading and final passage,



**SB 1090**, A bill to be entitled An Act relating to the violation of a court order enjoining a person from engaging in certain organized criminal activity; providing a criminal penalty.

The bill was read third time.

(Stiles in the chair)

**Amendment No. 1**

Representative De La Garza offered the following amendment to the bill:

Amend **SB 1090** on 3rd reading by striking line 15 on page 1.

Representative Bosse moved to table Amendment No. 1.

The motion to table prevailed.

**Amendment No. 2**

Representative G. Lewis offered the following amendment to the bill:

Amend **SB 1090** on third reading in Section 1 of the bill, in proposed Section 71.021, Penal Code, in Subsection (b), at the end of the sentence, by striking "or under both sections".

Representative Bosse moved to table Amendment No. 2.

The motion to table prevailed.

**HR 1101 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1101**, suspending the limitations on the conferees for **HB 636**.

**SB 1090 - (consideration continued)**

**SB 1090** was passed.

**SB 739 ON THIRD READING**  
**(Brimer - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 739**, A bill to be entitled An Act relating to the inspection and certification of elevators in an industrial facility.

The bill was read third time and was passed.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of family business:

Greenberg on motion of Puente.

**SB 1545 ON THIRD READING**  
**(Dutton - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1545**, A bill to be entitled An Act relating to the seizure and sale for delinquent ad valorem taxes of abandoned real property in a municipality.

The bill was read third time and was passed.

**SB 609 ON THIRD READING**  
**(Marchant - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 609**, A bill to be entitled An Act relating to municipal regulation of pool yard enclosures.

The bill was read third time and was passed.

**SB 437 ON THIRD READING**  
**(Alexander - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 437**, A bill to be entitled An Act relating to requiring a county to report on its expenditure of funds required to be used for highways.

A record vote was requested.

The bill was read third time and was passed by (Record 527): 124 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Woolley; Yarbrough; Yost.

Nays — Alvarado; Ogden.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Davis; Edwards; Harris; Hartnett; Hudson; Moreno; Oliveira; Price; Ramsay; Rangel; Seidlits; Thompson; Wolens; Zbranek.

**SB 780 ON THIRD READING**  
**(Gutierrez - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 780**, A bill to be entitled An Act relating to temporary justices of the peace.

The bill was read third time and was passed.

**SB 1349 ON THIRD READING**  
**(Combs and Greenberg - House Sponsors)**

The chair laid before the house, on its third reading and final passage,

**SB 1349**, A bill to be entitled An Act relating to subsequent evidentiary search warrants.

The bill was read third time and was passed.

**SB 520 ON THIRD READING**  
**(Telford - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 520**, A bill to be entitled An Act relating to eligibility for retirement and benefits under the Texas Municipal Retirement System.

The bill was read third time and was passed.

**SB 563 ON THIRD READING**  
**(McCoulskey - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 563**, A bill to be entitled An Act relating to the authority to abolish the position of marshal in a Type B general-law municipality.

The bill was read third time and was passed.

**SB 733 ON THIRD READING**  
**(Saunders - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 733**, A bill to be entitled An Act relating to regulating the taking, purchase, and sale of certain fish.

The bill was read third time and was passed.

**SB 727 ON THIRD READING**  
**(Ogden - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 727**, A bill to be entitled An Act relating to certain nonprofit corporations that purchase or make student or parent loan notes.

A record vote was requested.

The bill was read third time and was passed by (Record 528): 128 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby;

Gray; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Corte; Dukes; Edwards; Harris; Hudson; Longoria; Moreno; Naishtat; Price; Ramsay; Rangel; Zbranek.

**SB 1016 ON THIRD READING**  
**(R. Lewis - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1016**, A bill to be entitled An Act relating to the powers of water control and improvement districts.

A record vote was requested.

The bill was read third time and was passed by (Record 529): 125 Yeas, 1 Nay, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Nay — Naishtat.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Coleman; Delisi; Edwards; Gallego; Hartnett; Hudson; Longoria; Maxey; Moreno; Price; Ramsay; Sadler; West; Zbranek.

**SB 885 ON THIRD READING**  
**(Brady and Smithee - House Sponsors)**

The chair laid before the house, on its third reading and final passage,

**SB 885**, A bill to be entitled An Act relating to the eligibility for workers' compensation benefits of professional athletes employed by a franchise of the International Hockey League or the National Hockey League.

The bill was read third time and was passed.

**SB 647 ON THIRD READING**  
**(Walker - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 647**, A bill to be entitled An Act relating to the involvement of the Texas Department of Licensing and Regulation in the regulation of water well pump installers.

The bill was read third time and was passed.

**SB 675 ON THIRD READING**  
**(Walker - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 675**, A bill to be entitled An Act providing for the exemption from regulation by the Texas Department of Licensing and Regulation of water well drillers.

The bill was read third time and was passed.

**SB 99 ON THIRD READING**  
**(Giddings - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 99**, A bill to be entitled An Act relating to construction change orders.

The bill was read third time and was passed.

**SB 72 ON THIRD READING**  
**(T. Hunter - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 72**, A bill to be entitled An Act relating to the release of information kept in vessel and outboard motor ownership records.

The bill was read third time and was passed.

**SB 42 ON THIRD READING**  
**(Madden, Kamel and West - House Sponsors)**

The chair laid before the house, on its third reading and final passage,

**SB 42**, A bill to be entitled An Act relating to access to criminal history record information by certain organizations providing volunteer services.

The bill was read third time and was passed.

**SB 80 ON THIRD READING**  
**(Madden - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 80**, A bill to be entitled An Act relating to requiring training in issues concerning sex offender characteristics for certain judicial and law enforcement professionals.

The bill was read third time.

**Amendment No. 1**

Representative Cook offered the following amendment to the bill:

Amend **SB 80** as follows:

(1) Strike SECTION 3 of the bill (house committee report, page 2, lines 15-25, and page 3, lines 1-7) and substitute a new SECTION 3 of the bill to read as follows:

SECTION 3. Subsections (b) and (c), Section 415.034, Government Code, are amended to read as follows:

(b) The commission shall require a state, county, special district, or municipal agency that appoints or employs peace officers to provide each peace officer with a training program every 24 months. The course may not exceed 40 hours. Not less than 20 hours of the instruction must be on topics selected by the agency.

(c) The course provided under Subsection (b) must:

(1) be approved by the commission; ~~and~~

(2) include education and training in:

(A) civil rights, racial sensitivity, and cultural diversity; and

(B) unless determined by the agency head to be inconsistent with the officer's assigned duties:

(i) the recognition of cases that involve ~~the~~ following:

[~~(i)~~] child abuse;[~~;~~

[~~(ii)~~] child neglect;[~~;~~

[~~(iii)~~] family violence, [~~;~~] and

[~~(iv)~~] sexual assault; and

(ii) issues concerning sex offender characteristics;  
and

(3) include other education and training only if determined by the agency head to be consistent with the officer's assigned duties.

~~[(c) The course provided under Subsection (b) may not exceed 40 hours:]~~

(2) Strike SECTION 5(b) of the bill and substitute a new SECTION 5(b) of the bill to read as follows:

(b) For persons who are officers on September 1, 1995, the first set of courses required under Section 415.034(c)(2)(B)(ii), Government Code, as added by this Act, must be completed before September 1, 1997.

Amendment No. 1 was adopted without objection.

A record vote was requested.

**SB 80**, as amended, was passed by (Record 530): 135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Cuellar, H.; Edwards; Hudson; Price; Zbranek.

**SB 169 ON THIRD READING**  
**(Naishtat - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 169**, A bill to be entitled An Act relating to the interstate placement of and assistance to children; creating offenses and providing penalties.

A record vote was requested.

The bill was read third time and was passed by (Record 531): 134 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.



Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Edwards; Hochberg; Hudson; Longoria; Oliveira; Price.

**SB 39 ON THIRD READING**  
**(Combs - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 39**, A bill to be entitled An Act relating to the making of a statement to a court and to the defendant by a victim of a criminal offense or the victim's relative or guardian.

The bill was read third time and was passed.

**SB 206 ON THIRD READING**  
**(Denny - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 206**, A bill to be entitled An Act relating to fees and expenses for the services of a peace officer.

The bill was read third time and was passed. (Corte recorded voting no)

**SB 242 ON THIRD READING**  
**(Denny - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 242**, A bill to be entitled An Act relating to violence prevention and conflict resolution training for use in juvenile probation.

The bill was read third time and was passed.

**SB 667 ON THIRD READING**  
**(Janek - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 667**, A bill to be entitled An Act relating to the disclosure of health and mental health care information by certain providers of health care or mental health care.

The bill was read third time.

**Amendment No. 1**

Representative Averitt offered the following amendment to the bill:

Amend **SB 667**, Section 241.154 by adding a new subsection (d) to read as follows:

(d) Notwithstanding any other provision of this section, a fee in addition to those outlined in subsection (b) may be charged for expedited requests or copies of records that require certification or notarization. The requestor must specifically request these services, specify the time period for completion of an expedited request, be notified of the amount of the additional fee and agree to pay the additional charge before the request is processed.

Amendment No. 1 was adopted without objection.

**SB 667**, as amended, was passed.

**SB 1037 ON THIRD READING**  
**(Carona - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1037**, A bill to be entitled An Act relating to the custodians of local government and state agency funds.

A record vote was requested.

The bill was read third time and was passed by (Record 532): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Edwards; Hudson; Price; Zbranek.

**SB 1487 ON THIRD READING**  
**(Conley - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1487**, A bill to be entitled An Act relating to prohibiting the consideration of race or ethnicity as a factor in adoption or foster care placements.

A record vote was requested.

The bill was read third time and was passed by (Record 533): 135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs;

Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Dutton; Hudson; Oliveira; Price; Zbranek.

**SB 1674 ON THIRD READING**  
**(Dear - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1674.** A bill to be entitled An Act relating to the authority of the board of directors of the Tarrant County Water Control and Improvement District No. 1 to provide certain benefits.

A record vote was requested.

The bill was read third time and was passed by (Record 534): 128 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Park; Patterson; Pickett; Pitts; Place; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough.

Nays — Lewis, G.; Puente.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Dutton; Hochberg; Howard; Hudson; Oliveira; Price; Rusling; Smithee; Yost; Zbranek.

**SB 1232 ON THIRD READING**  
**(Stiles - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1232**, A bill to be entitled An Act relating to a motor vehicle self-insurance program for volunteer fire departments.

The bill was read third time and was passed.

**SB 1443 ON THIRD READING**  
**(Wilson - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1443**, A bill to be entitled An Act relating to administrative licensing.

The bill was read third time and was passed.

**SB 101 ON THIRD READING**  
**(Craddick - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 101**, A bill to be entitled An Act relating to the payment of an ad valorem tax under protest.

A record vote was requested.

The bill was read third time and was passed by (Record 535): 135 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Present, not voting — Mr. Speaker; Gray; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Hudson; Ogden; Price; Zbranek.

### MESSAGE FROM THE SENATE

Austin, Texas, May 24, 1995

The Honorable Speaker of the House of Representatives  
House Chamber

The Honorable  
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

**HB 632** by Oakley, et al. (Sponsor-Montford), relating to the expenditure of public funds for certain playground facilities (committee substitute).

**HB 883** by McDonald, et al. (Sponsor-Zaffirini), relating to the regulation of certain nursing practices (committee substitute).

**HB 960** by Puente (Sponsor-Madla), relating to authorizing counties to sell county-developed computer software (committee substitute).

**HB 1180** by Turner, Sylvester (Sponsor-West, Royce), relating to providing employment services and other information to persons formerly sentenced to the institutional division or the state jail division of the Texas Department of Criminal Justice.

**HB 1323** by Romo (Sponsor-Gallegos), relating to the employment of children; providing a criminal penalty.

**HB 1379** by Allen, Greenberg, et al. (Sponsor-Brown), relating to the registration, release, and supervision of sexual offenders (committee substitute).

**HB 1441** by Holzheuser (Sponsor-Bivins), relating to the financing of alternative fuels projects by the Texas Public Finance Authority on behalf of state agencies and certain political subdivision of the state.

**HB 1472** by Driver (Sponsor-Leedom), relating to certain insurance coverage available through the Texas Automobile Insurance Plan Association.

**HB 1483** by Tillery, et al. (Sponsor-Cain), relating to the regulation of certain practices by funeral directors, embalmers, and mortuary schools (committee substitute).

**HB 2289** by Hirschi (Sponsor-Haywood), relating to the representation of certain indigent persons by public defenders in Wichita County (amended).

**HB 2377** by Delisi and Berlanga (Sponsor-Zaffirini), relating to the provision and administration of mental health and mental retardation services (committee substitute).

**HB 1065** by Brimer, et al. (Sponsor-Sibley), relating to the practice of property tax consulting (amended).

**HB 1662** by Hilderbran (Sponsor-Zaffirini), relating to the powers and duties of the Department of Protective and Regulatory Services; providing penalties (committee substitute and amended).

**HB 1783** by Yarbrough (Sponsor-Whitmire), relating to the authority to charge a fee for installing or replacing water, sewer lines or other devices (committee substitute and amended).

**HB 1957** by Black, et al. (Sponsors-Sims, et al.), relating to the punishment for the offense of theft of cattle, horses, sheep, swine, goats, exotic livestock, or exotic fowl.

**HB 1991** by Giddings (Sponsor-West, Royce), relating to the historically underutilized business and small business linked deposit program.

**HB 2035** by Hamric (Sponsor-Nelson), relating to suspension or revocation of a driver's license of a juvenile.

**HB 2256** by Shields (Sponsor-Madla), relating to viatical settlements (amended).

**HB 2294** by Yost (Sponsor-Armbrister), relating to the regulation of groundwater; granting the power of eminent domain (amended).

**HB 2315** by Saunders (Sponsor-Brown), relating to the regulation of energy and material recovery and of gas recovery (amended).

**HB 2510** by Wilson (Sponsor-Sibley), relating to regulation of certain irrigators and irrigation system installers (committee substitute and amended).

**HB 2936** by Hochberg (Sponsor-Ellis), relating to financing of certain projects for certain counties (amended).

**HB 3050** by Junell (Sponsor-Montford), relating to exemption of certain funds from consolidation, re-creation of certain funds, preservation and creation of certain dedications of revenue, and exemption of certain unappropriated amounts from use for general governmental purposes (committee substitute and amended).

**SCR 168** by Ratliff, in memory of Trooper Timothy Wade McDermott.

**HB 958** by Turner, Bob (Sponsor-Wentworth), relating to the authority of certain counties to impose a county hotel occupancy tax (committee substitute and amended).

**HB 2843** by Lewis, Ron (Sponsor-Brown), relating to the adoption of rules by the Texas Natural Resource Conservation Commission (amended).

**SCR 169** by Cain, recalling **HB 466**.

**HB 1900** by Turner, Sylvester (Sponsor-Gallegos), relating to routine purchases and contracts made by a port commission.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 1396** and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senator Barrientos, Chair, Senator Truan, Senator Wentworth, Senator Ratliff, and Senator Luna.

I am directed by the Senate to inform the House that the Senate has granted the request of the house for the appointment of a Conference Committee to adjust the differences between the two Houses on the following:

**HB 1204** Senate Conferees: Wentworth, Chair, Brown, Whitmire, Shapiro, and Patterson.

**HB 1593** Senate Conferees: Brown, Chair, Bivins, Lucio, Sims, and Haywood.

Respectfully,  
Betty King  
Secretary of the Senate

**SB 1295 ON THIRD READING**  
**(Hightower - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1295**, A bill to be entitled An Act relating to use of the open market purchase procedure for certain state travel services and to sunsetting the General Services Commission's provision of certain travel services.

The bill was read third time and was passed.

**SB 1227 ON THIRD READING**  
**(Duncan - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1227**, A bill to be entitled An Act relating to the regulation of electric cooperative corporations.

A record vote was requested.

The bill was read third time and was passed by (Record 536): 127 Yeas, 6 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Eiland; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost.

Nays — Elkins; Heflin; Horn; Madden; Nixon; Reyna.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Marchant; Turner, S.; Wilson.

Absent — Edwards; Ehrhardt; Hudson; Price; Romo; Staples; Zbranek.

**SB 1509 ON THIRD READING**  
**(H. Cuellar - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1509**, A bill to be entitled An Act relating to the establishment of colonia self-help centers in certain counties.



The bill was read third time and was passed.

**SB 336 ON THIRD READING**  
**(Oliveira - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 336**, A bill to be entitled An Act relating to notice and cure provisions required for a defaulting purchaser under a contract for deed and to requirements for and loans associated with a contract for deed transaction in certain counties.

The bill was read third time.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Kubiak on motion of Yarbrough.

**RESOLUTIONS REFERRED TO COMMITTEE**

The following resolutions were laid before the house and referred to committee:

By Van de Putte,

**HR 1088**, Honoring Ryan Todd Holland on attaining the rank of Eagle Scout.

To Committee on Rules and Resolutions.

By Heflin and Hamric,

**HR 1089**, Congratulating Joseph and Patricia Calderon on the occasion of their 50th wedding anniversary.

To Committee on Rules and Resolutions.

By Heflin,

**HR 1090**, Honoring and congratulating the citizens of Alief on the occasion of the 100th anniversary of the Alief Post Office.

To Committee on Rules and Resolutions.

By Kuempel,

**HR 1091**, In memory of Mary Joe Durning Carroll.

To Committee on Rules and Resolutions.

By Gallego,

**HR 1092**, Honoring Dorothy M. Leavitt on her retirement from Sul Ross State University.

To Committee on Rules and Resolutions.

By Gallego,

**HR 1093**, Honoring Don Howard.

To Committee on Rules and Resolutions.

By Dear,

**HR 1094**, Honoring Murray "Pete" Peterson for his outstanding service as doorkeeper of the house.

To Committee on Rules and Resolutions.

By Crabb,

**HR 1097**, Recognizing the Kingwood High School girls' golf team for winning the state championship.

To Committee on Rules and Resolutions.

By Duncan, Laney, Junell, D. Jones, Craddick, et al.,

**HR 1099**, Congratulating the Texas Tech University Red Raiders on their outstanding athletic accomplishments during the 1994-95 academic year.

To Committee on Rules and Resolutions.

By Torres,

**HR 1100**, Honoring Joya T. Hayes for her participation in the Texas Legislative Internship Program.

To Committee on Rules and Resolutions.

### **SB 336 - (consideration continued)**

#### **Amendment No. 1**

Representative Pickett offered the following amendment to the bill:

Amend **SB 336** on 3rd reading by striking 2nd reading Amendment No. 9 by Pickett.

Amendment No. 1 was adopted without objection.

**SB 336**, as amended, was passed.

### **SB 1453 ON THIRD READING (Danburg - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1453**, A bill to be entitled An Act relating to the electronic availability of legislative information through the Internet.

The bill was read third time and was passed. (Farrar and T. Hunter recorded voting no)

### **SB 243 ON THIRD READING (Denny - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 243**, A bill to be entitled An Act relating to educating juveniles under the custody of the Texas Youth Commission in violence prevention and conflict resolution.

The bill was read third time and was passed.

### **SB 1375 ON THIRD READING (Krusee - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1375**, A bill to be entitled An Act relating to a municipal utility district composed of noncontiguous areas located in the extraterritorial jurisdiction of two municipalities.

A record vote was requested.

The bill was read third time and was passed by (Record 537): 132 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Kubiak; Marchant; Turner, S.; Wilson.

Absent — Edwards; Gray; Hochberg; Hudson; Price; Sadler; Smithee.

### **SB 1302 ON THIRD READING (Berlanga - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1302**, A bill to be entitled An Act relating to the regulation of physician assistants; providing a criminal penalty.

A record vote was requested.

The bill was read third time and was passed by (Record 538): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford;

Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Kubiak; Marchant; Turner, S.; Wilson.

Absent — Hudson; McCall; Price.

**SB 1303 ON THIRD READING**  
**(Berlanga - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1303**, A bill to be entitled An Act relating to the practice of medicine, including the rehabilitation of impaired physicians and the unlicensed practice of medicine; providing a penalty.

The bill was read third time.

**Amendment No. 1**

On behalf of Representative Berlanga, Representative Janek offered the following amendment to the bill:

Amend **SB 1303** on third reading by substituting the following Subsection (4) of Sec. 3.081 in SECTION 2 of the Bill for that Subsection (4) therein:

(4) findings of impairment based upon a mental or physical examination offered to establish such impairment in an evidentiary hearing before the Board with opportunity for opposition in full by such individual, or admissions by the individual indication that the licensee or applicant suffers from a potentially dangerous limitation or an inability to practice medicine with reasonable skill and safety by reason of illness or as a result of any physical or mental condition.

Amendment No. 1 was adopted without objection.

**SB 1303**, as amended, was passed.

**SB 695 ON THIRD READING**  
**(Oakley - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 695**, A bill to be entitled An Act relating to the personnel records of certain law enforcement officers and fire protection personnel; providing a criminal penalty.

The bill was read third time and was passed.

**SB 1606 ON THIRD READING**  
**(Yost - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1606**, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Travis County

Municipal Utility District No. 3, Travis County Municipal Utility District No. 4, Travis County Municipal Utility District No. 5, Travis County Municipal Utility District No. 6, Travis County Municipal Utility District No. 7, Travis County Municipal Utility District No. 8, and Travis County Municipal Utility District No. 9.

The bill was read third time and was passed. (Maxey and Naishtat recorded voting no)

**SB 48 ON THIRD READING**

**(Allen, Naishtat and Kamel - House Sponsors)**

The chair laid before the house, on its third reading and final passage,

**SB 48**, A bill to be entitled An Act relating to a crime victim's right to appear in person before members of the Board of Pardons and Paroles.

The bill was read third time and was passed.

**SB 134 ON THIRD READING**

**(Thompson, Farrar and Greenberg - House Sponsors)**

The chair laid before the house, on its third reading and final passage,

**SB 134**, A bill to be entitled An Act relating to the punishment for certain assaults committed by one member of a family against another family member.

The bill was read third time and was passed.

**SB 789 ON THIRD READING**

**(Goodman - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 789**, A bill to be entitled An Act relating to possession and delivery of a child in an emergency without a court order.

The bill was read third time and was passed.

**SB 814 ON THIRD READING**

**(Siebert - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 814**, A bill to be entitled An Act relating to the requirement of commercial licenses to catch, unload, and sell aquatic products.

The bill was read third time.

**Amendment No. 1**

Representative Uher offered the following amendment to the bill:

Amend **SB 814**, on third reading, SECTION 7. Sec. 77.0351.(b), page 5, lines 3 and 4, as follows:

After the word "license", strike "is \$25 or an amount set by the commission, whichever amount is more", and insert "shall be no less than \$25 and no more than \$50".

Amendment No. 1 was adopted without objection.

**Amendment No. 2**

Representative Uher offered the following amendment to the bill:

Amend **SB 814**, on third reading, by deleting second reading Amendment #2, in its entirety.

Amendment No. 2 was adopted without objection.

**SB 814**, as amended, was passed.

**SB 628 ON THIRD READING**  
**(Van de Putte - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 628**, A bill to be entitled An Act relating to access to pharmaceutical services through certain managed care health plans.

The bill was read third time and was passed.

**SB 284 ON THIRD READING**  
**(Moffat - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 284**, A bill to be entitled An Act relating to the liability of a peace officer who provides standby assistance to a victim of family violence.

A record vote was requested.

The bill was read third time and was passed by (Record 539): 132 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brimer; Carter; Chisum; Clemons; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker; Stiles(C).

Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Kubiak; Marchant; Turner, S.; Wilson.

Absent — Brady; Coleman; Edwards; Hochberg; Hudson; Maxey; Price.

**SB 1388 ON THIRD READING**  
**(Pickett - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1388**, A bill to be entitled An Act relating to the creation of a county mass transit authority.

The bill was read third time.

**Amendment No. 1**

Representative Pickett offered the following amendment to the bill:

Amend **SB 1388** on third reading by striking Section 2 of the bill (the effective date section) as amended on second reading and substituting the following:

SECTION 2. (a) This Act takes effect September 1, 1995.

(b) A confirmation election may not be held under Section 5, Article 1118z-1, Revised Statutes, as enacted by this Act, before September 1, 1997.

Amendment No. 1 was adopted without objection.

**SB 1388**, as amended, was passed. (Serna recorded voting no)

**SB 1671 ON THIRD READING**  
**(Seidlits - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 1671**, A bill to be entitled An Act relating to the validation of governmental acts and proceedings by municipalities.

A record vote was requested.

The bill was read third time and was passed by (Record 540): 134 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brimer; Carter; Chisum; Clemons; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Swinford; Talton; Telford; Thompson; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Nays — McDonald; Tillery.

Present, not voting — Mr. Speaker; Stiles(C).



Absent, Excused — Carona; Conley; Giddings; Greenberg; Gutierrez; Kubiak; Marchant; Turner, S.; Wilson.

Absent — Brady; Hirschi; Price.

**SB 281 ON THIRD READING**  
**(Nixon - House Sponsor)**

The chair laid before the house, on its third reading and final passage,

**SB 281**, A bill to be entitled An Act relating to the punishment for the offense of evading arrest or detention and certain civil consequences of using a vehicle to evade arrest or detention.

The bill was read third time and was passed.

**RESOLUTIONS CALENDAR**

The chair laid before the house the following resolutions on committee report:

By Counts,

**HCR 173**, urging the United States Congress to extend to noncorporate farmers, entities, and individuals the Internal Revenue Code tax incentive for charitable donations.

The resolution was adopted without objection.

**LEAVES OF ABSENCE GRANTED**

The following members were granted leaves of absence for the remainder of today because of important business:

Sadler on motion of Hernandez.

Gallego on motion of Hernandez.

**RESOLUTIONS CALENDAR - (consideration continued)**

By Culberson, Wilson, Brady, Uher, H. Cuellar, et al.,

**CSHCR 76**, authorizing the legislature to intervene in the Ruiz prison case and other cases involving the state correctional system and to employ legal counsel for that purpose.

**CSHCR 76** was adopted.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of illness:

Eiland on motion of Gray.

**HR 1102 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1102**, suspending the limitations on the conferees for **HB 1**.

**RESOLUTIONS REFERRED TO COMMITTEE**

The following resolutions were laid before the house and referred to committee:

By Gutierrez,

**HR 1078**, Commending the work of South Texas Community College.  
To Committee on Rules and Resolutions.

By Gutierrez,

**HR 1079**, In memory of Leonelo H. Gonzalez.  
To Committee on Rules and Resolutions.

By Gutierrez,

**HR 1081**, Honoring Saraeli M. Gonzales for her community service and congratulating her on her high school graduation.  
To Committee on Rules and Resolutions.

By Pitts,

**HR 1096**, Congratulating Roy and Agnes Pitts on the occasion of their 60th wedding anniversary.  
To Committee on Rules and Resolutions.

**HCR 230 - ADOPTED**

Representative Carter moved to suspend all necessary rules to take up and consider at this time **HCR 230**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Carter, et al.,

**HCR 230**, Commending the members of the Texas Task Force for Tiltrotor Technology.

The resolution was adopted without objection.

**HCR 231 - ADOPTED**

Representative Hightower moved to suspend all necessary rules to take up and consider at this time **HCR 231**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Hightower,

**HCR 231**

WHEREAS, **HB 2162** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains technical and typographical errors that should be corrected; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following corrections:

(1) In the text of SECTION 1.114(a) of the bill, in both instances in which "Subsection (c)" appears, strike those references and substitute "Subsection (b)".

(2) In SECTION 2.005 of the bill, in the text of added Section 8B(d), Article 42.18, Code of Criminal Procedure, strike "Money that remains unclaimed shall be transferred to the general revenue fund of the state treasury on the fifth anniversary of the date on which the money was deposited to the credit of the compensation to victims of crime auxiliary fund." and substitute "Money that remains unclaimed shall be transferred to the compensation to victims of crime auxiliary fund on the fifth anniversary of the date on which the money was deposited to the credit of the parolee restitution fund."

(3) In SECTION 2.017 of the bill, in the text of amended Section 27(a), Article 42.18, Code of Criminal Procedure, strike "information developed under Subsection (b)(4), Section 8B, [8(k) of this article]" and substitute "information developed under Section 8(k) of this article".

The resolution was adopted without objection.

### **HR 1010 - ADOPTED**

Representative Staples moved to suspend all necessary rules to take up and consider at this time **HR 1010**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Staples,

**HR 1010**, Congratulating the Honorable Gerard Torres on his birthday.

The resolution was read and was adopted without objection.

On motion of Representative Nixon, the names of all the members of the house were added to **HR 1010** as signers thereof.

(Speaker in the chair)

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Conference committee on **HB 984** on recess Thursday, May 25, E2.018, Capitol Extension.

### **ADJOURNMENT**

Representative De La Garza moved that the house adjourn until 10 a.m. tomorrow in memory of Mr. A. E. "Poly" Wells, former Superintendent of Schools in Abilene.

The motion prevailed without objection.

The house accordingly, at 8 p.m., adjourned until 10 a.m. tomorrow.

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**APPENDIX**

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**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

Licensing and Administrative Procedures - **SB 479**

Natural Resources - **SCR 154, SCR 155**

Public Education - **SB 194**

State Affairs - **SB 317**

**ENROLLED**

May 22 - **HB 29, HB 668, HB 670, HB 699, HB 869, HB 941, HB 1111, HB 1329, HB 1341, HB 1343, HB 1434, HB 1583, HB 1644, HB 1763, HB 1792, HB 1956, HB 2012, HB 2151, HB 2230, HB 2314, HB 2390, HB 2674, HB 3062, HB 3122, HCR 4, HCR 32, HCR 92, HCR 174, HCR 200, HCR 219**

May 23 - **HB 2365**

May 24 - **HB 1227, HB 2747**

**SENT TO THE GOVERNOR**

May 24 - **HB 1227, HB 2747**